THE
UNREPEALED ACTS
OF THE
GOVERNOR-GENERAL IN COUNCIL,
FROM 1883 TO 1886.

COMPILED BY

D. E. CRANENBURGH,

PLEADER.

Calcutta:

PRINTED AND PUBLISHED BY D. E. CRANENBURGH,

AT HIS "LAW-PUBLISHING PRESS,"

NO. 57, BOW BAZAR STREET.

1887.

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ACTS OF 1883.

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ACTS OF 1883.

ACT NO. I. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH JANUARY 1883.

An Act to make better provision for Local Self-government in the Central Provinces.

Preamble.

WHEREAS provision has been made by the Central Provinces Land-revenue Act, 1881, for the appointment of mukaddams for the several villages in the territories administered by the Chief Commissioner of the Central Provinces; and

Whereas provision has been made in the settlement-records of the districts in those territories for the levy of rates for the maintenance of roads, schools, and the district-post, and it is proposed that the Government shall, from time to time, assign certain sums, or the income accruing from certain sources, for expenditure on objects tending to promote the welfare and improvement of the inhabitants of each of those districts;

It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the Central Provinces Local Self-government Act, 1883.

Local extent.

It shall extend only to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

Commencement.

it shall come into force at once.

Definitions.

2. In this Act—

"Assistant Commissioner" includes an Extra Assistant Commissioner in any district where there is no Assistant Commissioner:

"Financial year" means the year commencing on the first day of April:

"Village" includes any tract of land which, at the last settlement of that land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of the Central Provinces Land-revenue Act, 1881; and

"Mukaddam" means the executive headman of a village appointed under that Act.

Formation of Local Administrative Areas.

Aggregation of villages in circles and groups for purposes of local self-government.

3. (1) The Chief Commissioner shall, by order in writing, for the purposes of the local self-government of each district, aggregate the several villages thereof in circles, and the circles in groups.

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(2) There shall be excluded from the circles and groups formed under this section such portions of the district as are for the time being included in the limits of a military cantonment, or of a town having a municipal committee.

(3) The Chief Commissioner may, from time to time, by order in writing, vary any order made under this section.

Constitution of Local Administrative Bodies.

Establishment of local boards for groups and of district councils for districts.

4. There shall be established for each group of circles a local board having authority over that group, and for each district a district council having authority over the entire district, except such portions thereof as are for the time being included in the limits of a military cantonment or of a town having a municipal committee.

Constitution of local board.

5. The local board for a group of circles shall consist of—

(*a*) representative members, one or more for each circle, being the mukaddam or mukaddams of a village or villages within that circle;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the area comprised in the group, and elected by, or appointed on behalf of, those classes or professions; and

(*c*) such person or persons, if any, not exceeding in number one-third of the board, as the Chief Commissioner may from time to time appoint.

Constitution of district council.

6. The district council of a district shall consist of—

(*a*) representatives of groups of circles within the district, one or more for each group, being a member or members of, and elected by, the local board for that group;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the district, and elected by, or appointed on behalf of, those classes or professions; and

(*c*) such person or persons, if any, not exceeding in number one-third of the council, as the Chief Commissioner may from time to time appoint.

Power to set aside election or remove member in case of conviction of offence.

7. (1) If a person convicted by a Criminal Court of an offence, the commission of which, in the opinion of the Chief Commissioner, shows him to be unfit to be a member of a local board or district council, is elected as such member, the Chief Commissioner may declare his election void.

(2) If a member of such a board or council is so convicted of any such offence, the Chief Commissioner may declare his office to be vacant.

Incorporation of district council.

8. Every district council shall be a body corporate by the name of the district council of its district, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, to transfer any moveable property, and, with the previous approval in writing of the Deputy Commissioner, any immoveable property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Duties of District Councils and Local Boards.

Matters to be administered by board and council.

9. The following matters shall, subject to such exceptions as the Chief Commissioner may, from time to time, by order in writing, make, be under the control and administration of the district council and of the local boards within the areas subject respectively to their authority :—

(*a*) The construction, repair, and maintenance of roads and other means of communication ;

(*b*) The management, maintenance, and visiting of schools, hospitals, dispensaries, markets, rest-houses, saráis, and other public institutions, and the construction and repair of all buildings connected with these institutions ;

(*c*) The construction and repair of public wells, tanks, and water-works, the supply of water from them and from other sources, and the preservation from pollution of water for drinking and cooking purposes ;

(*d*) The planting and preservation of trees on public ground ;

(*e*) The establishment and maintenance of relief-works in time of famine or scarcity ;

(*f*) The establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in operation, all the functions of the Local Government and the Magistrate of the district under sections 4, 5, 6, 7, 12, 14, and 17, and clause (*a*) of section 18, of that Act ;

(*g*) The management of such public ferries as may be entrusted to their charge under section 7A of the Northern India Ferries' Act, 1878, as amended by this Act ;

(*h*) Any other local works or measures likely to promote the health, comfort, or convenience of the public ; and

(*i*) The maintenance of any building or other property vested under this Act in the district council.

Relations of Local Boards to District Councils.

Duties of local board.

10. (1) A local board as the agent of, and subject to the control of, the district council, shall, within the area subject to its authority, have the control and administration of, and be responsible for, all the matters specified in section 9, except such of those matters as the district council may think fit to take under its direct control and administration, and such as the Chief Commissioner may have excepted by order under section 9.

(2) It shall be the duty of the district council to enforce the responsibility imposed on a local board by sub-section (1).

Reports, estimates, and accounts to be submitted by board to council.

11. Every local board shall submit annually to the district council of its district, on or before such date as the council may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the board for the coming financial year, and a report of its proceedings, and an account of its receipts and expenditure for the past financial year, and shall also submit to the council such other reports, if any, as the council may, from time to time, require.

Limits on expenditure of local board.

12. A local board shall not incur expenses or undertake liabilities to any amount exceeding the limit imposed by the district council of its district.

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13. A district council may, by a majority of two-thirds of its whole number, reverse or vary any resolution of a local board for an area within its district.

Power for council to reverse or vary resolution of board.

14. (1) If the local board makes default in the performance of any duty imposed on it by or under this Act, the district council may, by order in writing, fix a period for the performance of the duty.

Power for council to provide for performance of duty in default of board.

(2) If the duty is not performed within that period, the council may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

15. (1) The Chief Commissioner may, from time to time, by notification in the official Gazette, declare any local board established under this Act to be an independent board, and may, in like manner, cancel such notification.

Power to declare local boards independent.

(2) A local board so declared shall, while the notification is in force, so far as may be, have, within the area subject to its authority, the powers, and perform the duties, of a district council under this Act, and shall cease to be the agent of, and under the control of, the district council.

School Committees.

16. (1) Every district council, and every local board as the agent of, and subject to the control of, its district council, may, from time to time, appoint school committees for the several schools under its control and administration, and shall, as far as may be practicable, conduct the management of any school for which such a committee has been appointed, through that committee.

Appointment of school committees.

(2) All school committees existing within the area subject to the authority of any district council or local board at the time that council or board comes into existence shall be deemed to have been appointed under this section.

Joint Committees.

17. (1) A local board may, from time to time, concur with any other local board or boards for an area or areas in the same district, in appointing, out of their respective bodies, joint committees for any purpose in which they are jointly interested, and in delegating to any such committee any power which might be exercised by either or any of the local boards, and in framing and modifying regulations as to the proceedings of any such joint committee.

Joint committee of two or more local boards.

(2) If any dispute arises between two or more local boards acting under this section, the decision thereon of the district council of their district shall be final.

18. (1) A district council may, from time to time, concur with any other district council or district councils in appointing, out of their respective bodies, joint committees for any purpose in respect of which they are jointly interested, and in delegating to any such committee any power which might be exercised by any or either of the district councils, and in framing and modifying regulations as to the proceedings of any such joint committee.

Joint committee of two or more district councils.

(2) If any dispute arises between two or more district councils acting under this section, the decision thereon of the Commissioner, if the councils are in the same division, or, if they are not in the same division, of the Chief Commissioner, shall be final.

Conduct of Business.

19. (1) Every district council and local board shall, from time to time, elect one of its members to be chairman for one financial year at all meetings at which he is present.

Chairman.

(2) If the chairman so elected dies, resigns, or becomes incapable of acting, the council or board shall elect another of its members to be chairman for the period during which the person so dying, resigning, or becoming incapable, would have been entitled to continue in office, and no longer.

(3) An election under the foregoing provisions of this section shall not be valid until it is approved, in the case of the chairman of a local board, by the Commissioner of the division, and, in the case of the chairman of a district council, by the Chief Commissioner.

(4) If when any meeting is held the office of chairman is vacant, or the chairman is absent from the meeting, the members present shall appoint one of their number to be chairman thereat.

20. (1) Every district council and local board may, from time to time, make regulations as to the time and place of its meetings, the conduct of proceedings at meetings, and the appointment, powers, and proceedings of committees :

Regulations as to meetings and proceedings.

(2) Provided that every regulation made under this section must be consistent with this Act, and with any rules made by the Chief Commissioner under this Act.

Officers and Servants.

21. (1) Every district council may employ such officers and servants as may be necessary and proper for the efficient execution of its duties, and may assign to them such pay, leave, allowances, gratuities, and pensions, as it thinks fit.

Employment of officers and servants

(2) A local board may employ such officers and servants, and may assign to them such pay, leave, allowances, gratuities, and pensions, as the district council of its district thinks requisite and sufficient

(3) In the case of an officer lent by the Government, the council or board may contribute to any leave, allowance, gratuity, or pension, which he may become entitled to in accordance with the rules for the time being in force.

(4) If, in the opinion of the Commissioner,

(*a*) the number of persons employed by a council or board under this section, or the pay, allowances, gratuities, or pensions, assigned by the council or board to those persons, or to any particular person, is or are excessive, or

(*b*) any such person is unfit for his employment,

the council or board shall, on the requirement of the Commissioner, reduce the number or remuneration, or, as the case may be, dismiss the unfit person.

Vesting of Property.

22. The Chief Commissioner may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty, and is situate in the Central Provinces, shall vest in any district council ; and thereupon that property shall vest in that council for the purposes of this Act, subject to all rights over, and all debts, liabilities, and obligations (if any), affecting, that property.

Power to vest property in district council.

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Constitution, custody, and application of district fund.

23. (1) There shall be formed for each district a fund to be called the district fund, and there shall be placed to the credit thereof—

(*a*) the nett proceeds (after deducting the expenses of collection) of all rates levied in accordance with settlement-records in that district for the maintenance of roads or schools ;

(*b*) such portion (if any) of the surplus of the rates so levied for the maintenance of the district post as the Chief Commissioner may from time to time assign in this behalf ;

(*c*) the surplus accruing in that district under section 18 of the Cattle-trespass Act, 1871 ;

(*d*) the proceeds of public ferries payable into the district fund of that district under section 7A of the Northern India Ferries' Act, 1878, as amended by this Act ;

(*e*) all sums assigned, from time to time, by the Chief Commissioner for expenditure on local works in that district, under section 5 of the Central Provinces Additional Rates' Act, 1878, section 17 of the Northern India Ferries' Act, 1878, or any enactment amending either of those Acts ;

(*f*) all such rents and profits accruing from nazúl property in that district as the Chief Commissioner may, from time to time, direct to be paid to the district council ;

(*g*) all sums contributed to the fund by the Government, local bodies, or private persons ; and

(*h*) all sums received by the district council in the execution of this Act.

(2) The district fund shall be vested in the district council ; and the balance standing to the credit of the fund shall be kept in the Government treasury of the district.

(3) The district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 9 and 21, within the area subject to the authority of the district council, and, with the sanction of the Chief Commissioner, outside of that area, and also to the following purposes—

(*a*) the payment of school inspectors and normal school teachers appointed and controlled by the Government and employed in the district, and the provision of scholarships and prizes for schools in the district ;

(*b*) the payment of subordinate medical officers (including vaccinators) appointed by the Government and employed in the district ; and

(*c*) the expenses attending the audit of the accounts of the district council and of the local boards within the district.

Provided that the amount expended from the district fund in any financial year on primary education shall not be less than the estimated nett proceeds for that year of the rates levied in the district in accordance with the settlement-records for the maintenance of schools.

(4) When a local board has been declared independent under section 15, such portion of the district fund as the Chief Commissioner may from time to time fix in this behalf shall, during its independence, be annually set apart and placed at its disposal, and shall, for the purposes of this Act, be treated as a separate district fund.

24. (1) Every district council shall appoint a finance committee consisting of not less than three of its number.

Annual estimates of income and expenditure.

(2) Every district council shall, on or before the prescribed day in each year, hold a meeting, at which the finance committee shall submit to the council, in such form as the Chief Commissioner may, from time to time, by rule prescribe, an estimate of the income and expenditure of the council for the next financial year.

(3) The district council shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The district council shall, on or before the prescribed day, cause a copy of the estimate as provisionally approved by it to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner may object to the estimate on the ground that any expenditure on salaries, works, or otherwise, proposed therein, appears to him to be unnecessary or excessive, or that any particular contained therein appears to him to be erroneous, defective, or improper.

(6) If the Deputy Commissioner so objects, he shall signify his objections in writing to the district council: if he does not so object, he shall signify his approval in like manner.

(7) When the Deputy Commissioner signifies, under sub-section 6, objections to an estimate, the district council shall consider his objections, and either modify the estimate so as to remove them, or refer the estimate with the statement of objections, through the Deputy Commissioner, to the Commissioner, and the Commissioner shall signify to the district council his approval of the estimate, with or without such modifications as may be needed to remove the objections wholly or in part, as he thinks fit.

(8) When the Deputy Commissioner or Commissioner has signified his approval of an estimate, or the district council has modified an estimate so as to remove the Deputy Commissioner's objections, no expenditure which is not provided for in the estimate as approved or modified shall be incurred during the year to which the estimate relates without the previous sanction of the Commissioner.

(9) "Prescribed day," for the purposes of sub-section (2) or sub-section (4) of this section, means such day as the Chief Commissioner may, from time to time, by rule prescribe for the purposes of that sub-section.

(10) When the Deputy Commissioner is a member of the district council, the Commissioner shall take the place of the Deputy Commissioner for the purposes of this section, and the reference under sub-section (7) shall be to the Chief Commissioner.

Annual accounts and audit.

25. Accounts of the receipts and expenditure of every district council shall be made up to the last day of every financial year, in such form as the Chief Commissioner, from time to time, prescribes, and shall be examined and audited as soon as may be after the end of each financial year by such persons as the Chief Commissioner, from time to time, appoints in this behalf.

Inspection of estimates and accounts.

26. The district council shall cause a copy of every estimate provisionally or finally approved under section 24, and of every account made up under section 25, to be kept at its office; and any person may at all reasonable times inspect any such estimate or account.

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27. An abstract of every annual account of a district council, showing the income of the district fund under each head of receipts, the charges for establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent, shall be prepared by the district council in such form as the Chief Commissioner from time to time prescribes, and published annually in the English and Vernacular official Gazettes.

Publication of abstract of accounts.

Control.

28. (1) The Deputy Commissioner of a district shall have power to supervise the proceedings of the district council, and of every local board, joint committee, or school committee in the district, and, in exercise of that power, may (among other things)—

Deputy Commissioner's power of supervision.

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by the council, board, or committee, or any work in progress under its direction;

(*b*) call for and inspect any document which may be for the purposes of this Act in the possession, or under the control, of the council, board, or committee; and

(*c*) require the council, board, or committee to furnish such statements, accounts, and reports as he thinks fit.

(2) Where a joint committee is appointed by the district councils of several districts, the Deputy Commissioner of any of those districts may exercise a like power in respect of the proceedings of that committee; but if any difference arises between two or more Deputy Commissioners acting under this sub-section, it shall be referred, when the districts are in the same division, to the Commissioner, and, when the districts are not in the same division, to the Chief Commissioner, whose decision shall be final.

(3) The power given under this section to a Deputy Commissioner in respect of a local board or school committee may, with the sanction of the Chief Commissioner, be delegated by him to a subordinate not below the rank of an Extra Assistant Commissioner.

(4) When the Deputy Commissioner is a member of the district council, the powers given to him under this section shall, in respect of that council, vest in the Commissioner.

29. (1) If, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a district council, local board, joint committee, or school committee, or the doing of any act which is about to be done, or is being done, in pursuance of, or under cover of, this Act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof within his district.

Power to suspend execution of orders, &c.

(2) When a Deputy Commissioner makes any order under this section, he shall forthwith forward to the Commissioner a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force, with or without modification, permanently, or for such period as he thinks fit.

(3) The Commissioner shall forthwith submit to the Chief Commissioner a report of every case occurring under this section, and the Chief Commissioner may rescind or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made in respect of the same.

30. (1) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a district council or local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or to do it, shall be forthwith paid by the district council.

Extraordinary powers of Deputy Commissioner in case of emergency.

(2) If the expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(3) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

31. (1) When the Chief Commissioner is informed, on complaint made or otherwise, that a district council has made default in performing any duty imposed on it by or under this Act, the Chief Commissioner, if satisfied after due inquiry that the district council has been guilty of the alleged default, may, by an order in writing, fix a period for the performance of that duty.

Power to provide for performance of duties in default of district council

(2) If that duty is not performed within the period so fixed, the Chief Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the district council.

(3) If the expense and remuneration are not so paid, the Chief Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

32. (1) If a district council or local board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act or otherwise by law, or exceeds or abuses its powers, the Chief Commissioner may, with the previous approval of the Governor-General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare the council or board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power to supersede council or board in case of incompetency, default, or abuse of powers.

(2) When a district council or local board is so superseded, the following consequences shall ensue :—

(*a*) All members of the council or board shall, as from the date of the order, vacate their offices as such members ;

(*b*) All powers and duties of the council or board may, during the period of supersession, be exercised and performed by such person or persons as the Chief Commissioner from time to time appoints in that behalf ;

(*c*) Where a council is superseded, all property vested in it shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of suspension specified in the order, the council or board shall be re-established by appointment or election, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

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Powers of Commissioner.

33. In all matters connected with this Act, the Commissioner shall have and exercise the same authority and control over the Deputy Commissioners subordinate to him, as he has and exercises over them in the general and revenue administration.

Rules.

Power of Chief Commissioner to make rules as to district councils, local boards, and school committees.

34. The Chief Commissioner may, from time to time, make rules consistent with this Act and with reference (if necessary) to the varying circumstances of different local areas—

(*a*) as to the qualifications, mode and time of election or appointment, term of office, and remuneration and allowances (if any) of members of district councils and local boards, and as to the filling of casual vacancies in such councils and boards, and as to the number of the representative members for each circle or group of circles, and as to the number of the representatives of the mercantile classes or professions, to be elected or appointed to each local board or district council;

(*b*) as to the appointment, powers, and duties of school committees, the term of office of members of such committees, and the mode of removing them;

(*c*) as to the conduct of proceedings of district councils, local boards, and school committees, including the fixing of a quorum, the giving of the casting vote in cases of equal division, the minimum number of meetings to be held, and the maximum interval between successive meetings, the formation of committees other than school committees, and the delegation of powers to such committees;

(*d*) as to the mode of entering into and executing contracts and transfers of property on behalf of district councils, and the authority on which money may be paid from the district fund;

(*e*) as to the appointment and payment of auditors of the accounts of district councils and local boards;

(*f*) as to the appointment of the district fund between the general purposes of the district and the purposes of particular parts of the district, and the appropriation of funds raised in a particular area to the purposes of that area; and

(*g*) generally, for the guidance of district councils, local boards, school committees, and Government officers, in all matters connected with the administration of this Act, and for settling their relations to one another.

Procedure for making rules under section 34.

35. The Chief Commissioner shall, before making any rules under section 34, publish, in such manner as may, in his opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Exceptional Provision.

Power under special circumstances to except districts from operation of Act.

36. If the circumstances of any district or part of a district are, in the opinion of the Chief Commissioner, such that any of the provisions of this Act are unsuited thereto, he may, by order in writing, except the district, or

part from the operation of those provisions; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a subsequent order of the Chief Commissioner.

Supplemental Provisions.

Acquisition of land.

37. Where any land is required for the purposes of this Act, the Chief Commissioner may, on the request of the district council, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the district council of the compensation awarded under that Act, the land shall vest in the district council.

Penalty on member, officer, or servant being interested in contracts made with council, board, or committee.

38. If any member, officer, or servant of a district council, local board, or joint committee appointed under this Act, is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that council, board, or committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168.

Publication of rules and orders.

39. (1) All rules and orders made by the Chief Commissioner under this Act shall be published in the official Gazette both in English aud in such native languages as the Chief Commissioner may direct.

(2) The publication in the official Gazette of a rule purporting to be made by the Chief Commissioner under section 34 shall be conclusive evidence that it has been made as required by section 35.

Time for councils and boards coming into existence.

40. The several district councils and local boards under this Act shall come into existence at such time as the Chief Commissioner, by order, appoints in that behalf.

Rates payable under Settlement-record.

Confirmation and recovery of existing rates and accounts of same.

41. (1) All rates for the maintenance of roads, schools, or the district post, for the payment of which provision has been made in any settlement-record previous to the passing of this Act, shall be deemed to have been legally imposed, and shall be recoverable as if they were arrears of land-revenue payable directly to Government, and due on the land in respect of which they are payable.

(2) An account of the gross receipts and of the charges (if any) of collection of all such rates in each district shall be kept by the Deputy Commissioner of that district, and shall be annually rendered by him to the district council of that district.

Powers of Chief Commissioner with respect to rates.

42. The Chief Commissioner may, from time to time, by notification in the official Gazette,

(*a*) prescribe in what instalments, and at what times, the rates referred to in section 41 shall be payable, and make rules for their collection by village-officers or others; and

(*b*) exempt any land from liability to pay the whole or any part of any such rate, and vary or cancel any such exemption.

1883. *Amendment of the Northern India Ferries Act, 1878.*

Act 2. & Act 3.

Now section to follow section 7 of Act XVII. of 1878.

43. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely :—

In Central Provinces management may be vested in district council or local board, and proceeds paid into district fund.

"7A. The Chief Commissioner of the Central Provinces may direct that any public ferry wholly or partly within the area subject to the authority of a district council or local board in any district in those provinces be managed by that council or board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund of that district;

"and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

Amendment of sections 6 and 17 of same Act.

44. In section 6 of the same Act, after the words "section 7," and in section 17 of the same Act, after the words "section 7," where they first occur, the following shall be inserted, namely :—"and section 7A."

ACT NO. II. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 26TH JANUARY 1883.

An Act to amend the Elephants Preservation Act, 1879.

Preamble.

WHEREAS it is expedient to amend the Elephants Preservation Act, 1879, in manner hereinafter appearing; It is hereby enacted as follows :—

For section 4 of the said Act, the following shall be substituted, namely :—

Rights of Government with respect to certain elephants and tusks.

"**4.** Every wild elephant captured, and the tusks of every wild elephant killed, by any person not licensed under this Act, shall be the property of Government."

ACT NO. III. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 9TH FEBRUARY 1883.

An Act to repeal Act XXVII. of 1854.

Preamble.

WHEREAS Act XXVII. of 1854 (*to amend the law relating to the Názim of Bengal*) provides for the service and execution of processes within the precincts of the palace of the Názim at Murshidábád, through the Superintendent of the affairs of the Nizámat, or other officer discharging like functions;

And whereas by an indenture dated the first day of November 1880, and made between His Highness Sayyad Mansúr Alí, Nawáb Názim of Bengal, of the first part, the Secretary of State for India in Council of the

second part, and certain other persons of the third part, the Nawáb Názim of Bengal has, for certain valuable considerations in the indenture mentioned, relinquished and retired from the Nizámat and Súbahdárí of Bengal, Bihár, and Orissa, and his position as Názim and Súbahdár of Bengal, Bihár, and Orissa, and his right as Nawáb Názim for the time being to the authority, dignities, stipend, pay, allowances, properties, privileges, and rights thereof, or in any wise thereunto annexed or appertaining, or therewith enjoyed, and all right and title to interfere or intermeddle hereafter in any way, directly or indirectly, with anything concerning the said Nizámat and Súbahdárí;

And whereas, in consequence of the arrangements made by the said indenture, the office of Superintendent of the affairs of the Nizámat has been abolished, and there will in future be no officer discharging the like functions, and it is therefore expedient to repeal Act XXVII. of 1854; It is hereby enacted as follows:—

Repeal of Act XXVII. of 1854.

1. Act XXVII. of 1854 is repealed.

ACT NO. IV. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH FEBRUARY 1883.

An Act to amend the Indian Railways Act, 1879.

Preamble.

WHEREAS it is expedient to amend the Indian Railways' Act, 1879, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

Commencement.

1. This Act may be called the Indian Railways' Act, 1883;
and it shall come into force at once.

New sections substituted for section 5 of Act IV. of 1879.

2. For section 5 of the said Act the following sections shall be substituted, namely:—

Railway when to be opened.

"5. A Railway, or portion or extension of, or addition to, a Railway, shall not be opened for the public conveyance of passengers until the Railway Administration has given to the Governor-General in Council notice in writing of the intention of opening the same, and until the Governor-General in Council has by order sanctioned the opening of the same.

Governor-General in Council may appoint Inspecting-officers.

"5A. The Governor-General in Council may from time to time appoint, by name or by virtue of their office, officers to be Inspecting officers under this Act.

Sanction not to be given until after report by Inspecting-officer.

"5B. (1) The sanction referred to in section 5 shall not be given until an officer appointed under section 5A has, after inspection of the Railway, portion, extension, or addition, as the case may be, reported to the Governor-General in Council that in his opinion the opening of the same would not be attended with danger to the public using it.

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"(2) Notwithstanding anything hereinbefore contained, the Governor-General in Council may, in any particular case or in any particular class of cases, by special order, confer on any officer appointed under section 5A power to sanction the opening of a Railway, portion, extension, or addition, if in the officer's opinion the opening of the same will not be attended with danger to the public using it.

"(3) In such case it shall not be necessary to make the report required by sub-section (1); but the Governor-General in Council may, by order, cancel the sanction given under sub-section (2), or direct that the sanction shall be subject to such conditions as he thinks fit.

"(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor-General in Council, or the officer appointed under section 5A, as the case may be, thinks necessary for the safety of the public.

"(5) When sanction for the opening of any Railway, or portion or extension of, or addition to, any Railway, is given subject to conditions, and the Railway Administration fails or neglects to fulfil, or comply with, those conditions, the sanction shall, on the failure or neglect, forthwith be deemed to be void, and the Railway, or portion, or extension, or addition, as the case may be, shall not be used unless and until sanction is again obtained under this section for the opening thereof.

When alterations affecting safety of passengers are made in Railway, sanction to be again obtained for opening.

"5C. If, after a Railway has been opened as hereinbefore provided, any portion of it is so altered by the Railway Administration as to cause danger to, or affect the safety of, passengers carried thereon, the portion so altered shall not be used for the public conveyance of passengers, unless and until sanction is obtained, in accordance with the provisions of section 5B, for the opening of it.

Powers of Inspector of Railways.

"5D. (1) Every officer appointed under section 5A shall, for the purpose of the inspection, be deemed to be a public servant within the meaning of the Indian Penal Code, and shall, subject to the control of the Governor-General in Council, have the following powers, namely:—

"(*a*) he may enter on and inspect any Railway or portion thereof which has been opened for the public conveyance of passengers, or any rolling-stock used thereon;

"(*b*) he may, by an order in writing under his hand, require the attendance of any Railway-servant whom he thinks fit to call before him and examine for the said purpose, and may require any such servant to answer, or furnish returns regarding, such inquiries for the said purpose as he thinks fit to make;

"(*c*) he may require and enforce the production of all books, papers, and documents belonging to or in the possession of any Railway Administration which in his opinion are necessary for the said purpose.

"(2) Every Railway Administration whose Railway or rolling-stock is being inspected under this Act shall afford all reasonable facilities for making the inspection to the officer making it.

Governor-General in Council empowered to close Railway.

"5E. When, after inspecting any Railway or portion of a Railway, or any rolling-stock used thereon, any officer appointed under section 5A reports to the Governor-General in Council that, in his opinion, the use of the

Railway or portion, or of any specified rolling-stock, will be attended with danger to the public using it, the Governor-General in Council may, by order, direct that the Railway or portion be closed for the public conveyance of passengers, or that the rolling-stock so specified shall no longer be used, as the case may be.

Re-opening of Railway.

"5F. (1) When a Railway or portion of a Railway has been closed under section 5E, it shall not be re-opened for the public conveyance of passengers unless and until it has been inspected, and its opening sanctioned, in accordance with the provisions of section 5B.

"(2) When the Governor-General in Council has directed under section 5E that any rolling-stock shall not be used, the rolling-stock shall not be used unless and until an officer appointed under section 5A reports that it is fit for use, and the Governor-General in Council sanctions its use."

Amendment of, and addition to section 8.

3. In section eight of the said Act, in clause (*d*), the word "and" shall be omitted, and after clause (*d*) the following clause shall be, and be deemed to have always been, inserted :—

"(*dd*) for regulating the conduct of the Railway-servants, and"

New section to be substituted for section 21 of Act IV. of 1879.

4. For section 21 of the said Act the following section shall be substituted :—

Penalty for opening or re-opening Railway in contravention of sections 5 and 5F, and keeping open after order under section 5E.

"21. Any Railway Administration opening or using, in contravention of section 5, section 5B, or section 5C, any Railway, or any portion or extension of, or addition to, a Railway, or keeping, in contravention of an order of the Governor-General in Council under section 5E, any Railway or portion thereof open, or re-opening, in contravention of section 5F, sub-section (1), any Railway or portion thereof, or using, in contravention of section 5F, sub-section (2), any rolling-stock, shall forfeit to Government the sum of one thousand rupees for every day during which the Railway, portion, extension, or addition, remains open or is used in contravention of any of those sections or of the order of the Governor-General in Council, as the case may be, or during which the rolling-stock is so used."

ACT NO. V. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 23RD FEBRUARY 1883.

An Act for the further amendment of the law relating to Merchant Shipping.

WHEREAS it is expedient to amend the law relating to investigations into casualties affecting ships and charges against masters, mates, and engineers ;

and whereas it is also expedient to provide, in other respects hereinafter appearing, for the regulation and control of Merchant Shipping ;

It is hereby enacted as follows :—

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CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be called the Indian Merchant Shipping Act, 1883.

Extent.

(2) It extends to the whole of British India;

Commencement.

(3) and it shall come into force on the first day of January, 1884.

Repeal of enactments.

2. (1) The Indian Merchant Shipping Act, 1875, and Act XIII. of 1878 (*an Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports' Act, 1875*), are hereby repealed.

(2) But all proceedings commenced, officers appointed, powers conferred, investigations held, certificates cancelled or suspended, agreements made, and persons authorized under the said Acts or either of them, shall be deemed to have been respectively commenced, appointed, conferred, held, cancelled, or suspended, made and authorized under this Act.

Definitions.

3. In this Act—

"ship" includes every description of vessel used in navigation not propelled by oars; and

"master" means any person (except a pilot or harbour-master) having for the time being control or charge of a ship.

Saving and provision as to powers for removal of master.

4. (1) Nothing in this Act shall affect the powers conferred by section 240 of the Merchant Shipping Act, 1854, or by section 80 of Act I. of 1859 (*for the amendment of the law relating to Merchant Shipping*), on Courts having admiralty jurisdiction in India.

(2) The powers conferred by the last-mentioned enactment may, at any port in British India where there is no Court having admiralty jurisdiction, be exercised by the principal Court of ordinary criminal jurisdiction at that port.

CHAPTER II.

INVESTIGATIONS INTO SHIPPING CASUALTIES.

Chapter not to apply to certain ships.

5. Nothing in this chapter shall apply to any ship belonging to, or in the service of, Her Majesty, or of the Government of India, or belonging to any foreign Prince or State.

Report of casualties to be made to Local Government.

6. (1) Whenever any Magistrate, or any officer appointed by the Local Government in this behalf, receives credible information that—

(*a*) any ship has been lost, abandoned, stranded, or materially damaged on or near the coasts of British India; or

(*b*) by reason of any casualty happening to, or on board of, any ship on or near those coasts, loss of life has ensued; or

(*c*) any ship has caused loss or material damage to any other ship on or near those coasts; or

(*d*) any such loss, abandonment, stranding, damage, or casualty has happened elsewhere to, or on board of, any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or

(*e*) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of;

he shall forthwith report in writing the information to the Local Government.

(2) In the cases mentioned in clauses (*a*), (*b*) and (*c*), the master, pilot, harbour-master, or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage, or casualty, and

in cases under clause (*d*), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned, proceeds to any place in British India from the place where the loss, abandonment, stranding, damage, or casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the loss, abandonment, stranding, damage, or casualty to the nearest Magistrate, or, when he arrives at a port in British India, to the officer appointed as aforesaid at that port.

(3) Any person bound to give notice under this section, and wilfully failing to give the same, shall be punished with fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

Power for Local Government to appoint special Court of Investigation.

7. (1) If in any such case a formal investigation into the facts mentioned in section 6, clause (*a*), (*b*), (*c*), (*d*), or (*e*), appears to the Local Government to be requisite or expedient, the Local Government (whether the notice is given or not) may appoint a special Court, consisting of not less than 2 nor more than 4 persons, and direct that Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

Power for other Courts to hold investigations into casualties when so directed.

8. Every Court having admiralty jurisdiction in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no Court having admiralty jurisdiction, is hereby authorized, when so directed by the Local Government, to make the investigations referred to in section 7.

Power for Court of Investigation to inquire into charges against masters, mates, and engineers.

9. (1) Any Court making an investigation under section 7 or section 8 may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate, or engineer, as well as into any charge of a wrongful act or default on his part causing any such loss, abandonment, stranding, damage, or casualty as aforesaid.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate, or engineer in the course of an investigation, the Court

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shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Power for Local Government to direct investigation into charges of incompetency or misconduct.

10. (1) If the Local Government has reason to believe that there are grounds for charging any master, mate, or engineer, holding a certificate granted by the Board of Trade or a Local Government, with incompetency or misconduct, otherwise than in the course of an investigation under section 7 or section 8, it may transmit a statement of the case to any Court mentioned in section 8, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(2) Before commencing the investigation, the Court shall cause the master, mate, or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

Person accused to be heard.

11. For the purpose of an investigation under this chapter into any charge against a master, mate, or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Powers of Courts as to evidence and regulation of proceedings.

12. For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(*a*) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(*b*) if the Court is a Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exerciseable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

Assessors.

13. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate, or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the Merchant Service; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

(2) The assessors shall attend during the investigation, and deliver their opinions in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act or any other enactment for the time being in force shall rest with the Court.

Power to arrest witnesses, and cause entry and detention of vessels.

14. (1) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary

to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

Power to commit for trial and bind over witnesses.

15. (1) Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

(2) For the purposes of this section the Recorder of Rangoon shall, within the local limits of his ordinary civil jurisdiction, be deemed to be the High Court.

Depositions.

16. (1) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof —

(*a*) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(*b*) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused, and that he had that opportunity, shall, unless the contrary be proved, be sufficient evidence that it was so made, and that he had that opportunity.

Report by Court to Local Government.

17. (1) The Court shall, in the case of all investigations under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

(2) In cases in which, under the Merchant Shipping Acts, 1854 to 1882, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

CHAPTER III.

SUSPENSION AND CANCELLATION OF CERTIFICATES AND GRANT OF FRESH CERTIFICATES.

Saving of power to cancel and suspend certificates under English Acts.

18. Nothing in this Act shall affect the powers conferred by the Merchant Shipping Acts, 1854 to 1882, on the Courts conducting investigations under sections 7, 8, 9, and 10 of this Act, to cancel or suspend certificates granted under any of the said Merchant Shipping Acts, or certificates to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

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Power to issue local certificates in lieu of cancelled or suspended certificates.

19. (1) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under that Act.

(3) The Local Government may act under this section either in pursuance of a recommendation from the Court, or of its own motion.

Power for Local Government to suspend or cancel certificates in certain cases.

20. Any certificate (whether of competence or sevice) which has been granted by any Local Government to any master, mate, or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say :—

(*a*) if, on any investigation made under this Act, the Court reports that the loss, stranding, or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny, or other misconduct;

(*b*) if, on any investigation made under the Merchant Shipping Acts, 1851 to 1882, or on any investigation made by any Court or tribunal for the time being authorized by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates, or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate, or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that the loss, stranding, or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;

(*c*) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony ; and

(*d*) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force :

Provided that, in any case in which an investigation has been made into a charge against any master, mate, or engineer, a certificate shall not be suspended or cancelled under clause (*a*), unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section 9 or section 10, as the case may be.

Obligation to deliver up cancelled or suspended certificate.

21. Every master, mate, or engineer, whose certificate is cancelled or suspended under section 20, shall deliver it to the Shipping Master, or to such other person as the Local Government which cancelled or suspended

the certificate directs, and in default of such delivery shall, for each offence, be punished with fine which may extend to five hundred rupees.

Report to other Local Governments.

22. If the Local Government which cancels or suspends, under section 20, a certificate of a master, mate, or engineer, is not the Local Government that granted the same, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

Report to Board of Trade.

23. Every Local Government cancelling or suspending under section 20 the certificate of a master, mate, or engineer, shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Power to revoke cancellation or suspension, and grant new certificate.

24. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section twenty, or grant, without examination, to any person, whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act.

(3) A certificate of competency for a home-trade ship under Act I. of 1859 shall be deemed, for the purposes of this section, to be of a lower grade than a certificate of competency for a foreign-going ship under the same Act.

CHAPTER IV.

AGREEMENTS WITH SEAMEN.

Chapter to be read with Act I. of 1859.

25. This chapter shall be read with, and taken as part of, Act I. of 1859.

Masters to enter into agreements with seamen.

26. The master of every ship, except ships of a burden not exceeding 300, tons employed only in the home-trade, shall enter into an agreement with every seaman whom he engages in, and carries to sea from, any port in British India as one of his crew in the manner hereinafter mentioned.

Form and contents of agreement.

27. (1) Every such agreement shall be in a form sanctioned by the Governor-General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, that is to say :—

(*a*) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend ;

(*b*) the number and description of the crew, specifying how many are engaged as sailors ;

(*c*) the time at which each seaman is to be on board or to begin work ;

(*d*) the capacity in which each seaman is to serve ;

(*e*) the amount of wages which each seaman is to receive :

(*f*) a scale of the provisions which are to be furnished to each seaman ; and

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(g) any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the *Governor-General in Council as regulations proper to be adopted, and which the parties agree to adopt.*

(2) Every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

Scale of provisions to be furnished to lascars.

28. (1) In the case of such agreements with lascars or other native seamen, the scale of the provisions agreed to be furnished to each of such seamen shall not be less than a scale to be, from time to time, fixed and published by the Local Government with the previous sanction of the Governor-General in Council.

(2) Any master entering into an agreement with any lascar or other native seaman for a scale of provisions less than the scale so fixed and published shall be punished with fine which may extend to 200 rupees.

Stipulation where lascars are shipped.

29. (1) Whenever it is agreed that the service of any lascar or other native seaman shall end at any port not in British India, the agreement shall, in addition to the particulars specified in section 27, contain a stipulation that fit employment shall be provided for him on board some other ship bound to the port at which he was shipped, or such other port in British India as may be agreed on; or

that a passage shall be provided for him to some port in British India free of charge, or on such other terms as may be agreed on.

(2) Every such stipulation shall be signed by the owner of the ship, or by the master on his behalf.

(3) In this section the word "seaman" shall include also any native of British India carried to sea from any port in British India as one of the crew of a ship.

Forms for British or Colonial ships.

30. If the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages a single seaman, not being a lascar or other native seaman, in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

CHAPTER V.

HEALTH-OFFICERS.

Addition to Act XII. of 1875.

31. In the Indian Ports Act, 1875, after section 18, the following section shall be inserted, that is to say:—

Appointment and powers of Health-officer.

"18A. The Local Government may, from time to time, appoint, at any port subject to this Act, an officer to be called the Health-officer, and may suspend or remove from office any officer so appointed.

"A Health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, that is to say:—

"(a) with respect to any ship, the powers conferred on a Shipping Master by Act I. of 1859, section 71;

"(*b*) power to enter on board any ship and medically examine all or any of the seamen or apprentices on board the ship;

"(*c*) power to require and enforce the production of the log-book and any other books, papers, or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the ship;

"(*d*) power to call before him and examine for any such purpose all or any of those persons, and to require answers to any inquiries he thinks fit to make;

"(*e*) power to require any person so examined to make and subscribe a declaration of the truth of the statements made by him."

CHAPTER VI.

MISCELLANEOUS.

Power to appoint persons to sue.

32. (1) Where any wages or expenses recoverable under section 213 of the Merchant Shipping Act, 1854, or under section 16 of the Merchant Shipping Act Amendment Act, 1855, are, under the same sections, a charge upon any ship, or recoverable from any master, owner, or other person, within the jurisdiction of any Court in British India, the Governor-General in Council may, from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, those wages or expenses.

(2) Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

Proceedings to be instituted in name of Secretary of State for India in Council.

33. All suits and proceedings under section 32 shall be instituted and carried on in the name of the Secretary of State for India in Council.

Amendment of section 10 of Act I. of 1859.

34. In section 10 of Act I. of 1859, for the words "Fees at the following rates shall be paid by all applicants for examination:—

For a certificate as master	. . .	ten rupees.
Ditto ditto as mate	. . .	five ,,

the following shall be substituted, namely:—"Fees at such rates as the Local Government may, from time to time, with the previous sanction of the Governor-General in Council, fix in this behalf, shall be paid by all applicants for examination."

Addition to section 11 of Act I. of 1859.

35. To section 11 of Act I. of 1589 the following shall be added, namely:—

"Provided that the Local Government may, in any case in which it has reason to believe that such report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character."

Amendment of section 79 of Act I. of 1859.

36. For the last fifteen words of section 79 of Act I. of 1859. the following shall be substituted, namely:—"punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both."

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Provisions as to examinations, &c., of masters not to apply to certain ships.

37. Sections 9 to 16 (both inclusive) of Act I. of 1859 shall not apply to ships registered under Act X. of 1841 and trading between ports in India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars, or other Asiatic masters and seamen.

Amendment of Act X. of 1841, sections 2, 15, 17, and 23.

38. In sections 2, 15, 17, and 23 of the said Act X. of 1841, for the words "on information in any Court of Her Majesty or the East India Company by the Advocates-General of the respective Presidencies," "by information as aforesaid," "on information as aforesaid," "upon information as aforesaid," in each of the places where they occur, the following words shall be substituted, namely:—"on conviction before a Presidency Magistrate or a Magistrate of the first class."

ACT NO. VI. OF 1883.

Received the G.-G.'s Assent on the 23rd February 1883.

An Act to give power to arrest persons whose evidence is needed under Act XII. of 1859.

Preamble.

Whereas it is expedient to empower the Judges holding trials under Act XII. of 1859 (*An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty*) to arrest persons whose evidence is required on such trials; it is hereby enacted as follows:—

Addition to Act XII. of 1859, after section 14.

1. The following section shall be inserted immediately after section 14 of the said Act, namely:—

"15. (1) Whenever the Judge of the said Court thinks it necessary for obtaining evidence that any person should be arrested, he may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

"(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

"(3) No person shall be detained under the section for more than forty-eight hours."

Commencement of Act.

2. This Act shall come into force on the first day of January, 1884.

ACT NO. VII. OF 1883.

Received the G.-G.'s Assent on the 19th April 1883.

An Act to repeal the British Burma Labour Law, 1876.

Preamble.

Whereas it is expedient to repeal the British Burma Labour Law, 1876; It is hereby enacted as follows:—

The British Burma Labour Law, 1876, is repealed.

ACT NO. VIII. OF 1883.

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Act 8.

RECEIVED THE G.-G.'S ASSENT ON THE 19TH APRIL 1883.

An Act to amend the law in force in the Little Cocos Island and Preparis Island.

Preamble.

WHEREAS the Little Cocos Island and Preparis Island have been transferred to the administration of the Chief Commissioner of British Burma, and attached to the Hanthawaddy District of the Pegu Division of British Burma;

And whereas the Little Cocos Island, when subject to the administration of the Chief Commissioner and Superintendent of the Andaman and Nicobar Islands, formed portion of a Scheduled District under the Scheduled Districts Act, 1874, and was subject to the operation of the Andaman and Nicobar Islands Regulation, 1876;

And whereas it is expedient that the law in force in the Little Cocos Island and in the Preparis Island should be the same as that in the Hanthawaddy District of the Pegu Division of British Burma;

It is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the Little Cocos and Preparis Islands Laws Act, 1883: and it shall come into force on the passing thereof.

Declaration of laws to be in force in Little Cocos and Preparis Islands.

2. All enactments which, on the twenty-ninth day of November, 1882, were in force in the Hanthawaddy District of the Pegu Division of British Burma, shall be deemed to have come into force in the Little Cocos and Preparis Islands on that day; and all enactments which, on that day, were in force in those Islands, and not in that District, shall be deemed to have been repealed on and from that day in those Islands.

Provision as to pending proceedings.

3. All proceedings commenced before any authority in those Islands before the twenty-ninth day of November, 1882, and still pending, shall be disposed of by such authority as the Chief Commissioner of British Burma may direct, and, save as directed in this section, shall be carried on as if this Act had not been passed.

Withdrawal of Little Cocos Island from Andaman and Nicobar Islands Regulation, 1876, and Scheduled Districts Act, 1874.

4. On and from the twenty-ninth day of November, 1882, the Little Cocos Island shall be deemed to have been removed from the operation of the Andaman and Nicobar Islands Regulation, 1876, and have ceased to be a Scheduled District.

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ACT NO. IX. OF 1883.

CENTRAL PROVINCES TENANCY ACT.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND JUNE 1883.

An Act to consolidate and amend the law relating to Agricultural Tenancies in the Central Provinces.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows.

CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be called "The Central Provinces Tenancy Act, 1883:" and

Local extent.

(2) It extends to all the territories for the time being administered by the Chief Commissioner of the Central Provinces, except those specified in the Scheduled Districts Act, 1874, Schedule I., Part VI.

Commencement.

(3) This Act shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, direct.

Nevertheless, any notification, rule, order, or appointment to an office, may be made under this Act at any time after the passing thereof, but shall not take effect before this Act comes into force.

Repeal of Acts.

2. On and from the day on which this Act comes into force, the Acts mentioned in the schedule hereto annexed shall be repealed.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(2) "tenant" means a person who holds land of another person, and is, or, but for a special contract, would be, liable to pay rent for that land to that other person; but it does not include a farmer, mortgagee, or thíkádár of proprietary rights:

Explanation.—An inferior proprietor is not, as such, a tenant:

(3) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for a special contract, would be, liable to pay rent for that land:

(4) "rent" means whatever is paid, delivered, or rendered, in money, kind, or service, by a tenant on account of the use or occupation of land let to him:

(5) "pay," "payable," and "payment," used with reference to rent, include "deliver," deliverable," and "delivery":

(6) "arrear" means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable:

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(7) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(8) "improvement" means, with reference to a holding, any work which adds to the letting-value of the holding, which is suitable to the holding, and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it:

Explanation I.—It includes the reclaiming, enclosing, or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells, and water-channels as are made by tenants in the ordinary course of agriculture; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord:

Explanation II.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(9) "Revenue-officer" and "Settlement-officer," in any provision of this Act, mean respectively such Revenue-officer or Settlement-officer appointed under the Central Provinces Land-revenue Act, 1881, as the Chief Commissioner may, from time to time, by notification in the official Gazette, direct by name or by virtue of his office to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision:

(10) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified local area, from time to time, by notification in the official Gazette, appoint:

(11) "sír-land" means—

(*a*) land recorded as "sir" in the papers of the last preceding settlement of the local area in which the land is situate;

(*b*) land not so recorded, but which has been cultivated by the proprietor or one of the proprietors thereof for a period of not less than twelve consecutive years;

(*c*) waste land which has been broken up by the proprietor or one of the proprietors thereof, and cultivated by him for a period of not less than six consecutive years; and

(*d*) the "bhogra" lands of Sambalpúr:

Explanation.—Land which has, after the date of the above-mentioned settlement, or the expiration of the above-mentioned period of twelve years or six years (as the case may be), been for a period of six consecutive years unoccupied by the proprietor, is not sír-land. Land is not unoccupied by the proprietor when it is leased out by him with an express reservation of his sír-rights:

(12) "village" includes any tract of land which, at the last settlement of the same, has been recognised as a village, or which the Chief Commissioner declares to be a village for the purposes of the Central Provinces Land-revenue Act, 1881: and

(13) "record-of-rights" includes the supplementary administration paper prepared at or after the time of making a settlement before the Central Provinces Land-revenue Act, 1881, came into force.

CHAPTER II.

OF TENANTS GENERALLY.

A.—*Classification of Tenants.*

Classes of tenants.

4. There shall be four classes of tenants, namely:—

(1) Absolute occupancy-tenants;
(2) Occupancy-tenants;
(3) Sub-tenants;
(4) Ordinary tenants.

B.—*Provisions relating to Rent.*

Presumption as to amount of rent payable.

5. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year.

Date from which order fixing rent operates.

6. An order fixing, altering, or commuting the rent of a holding on an application under this Act, may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent day, or, if it is made on the ground of increase, diminution, or deterioration of the holding, from the date of that increase, diminution, or deterioration, or from any subsequent day.

Time for payment of rents.

7. Rents shall be payable in such instalments and on such dates as the Chief Commissioner may, from time to time, by notification in the official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

Rents payable to a number of landlords.

8. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Chief Commissioner may, from time to time, by notification in the official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to deposit rent in certain cases with Revenue-officer.

9. (*a*) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

(*b*) when a tenant, in the case mentioned in section eight, desires the appointment of a person to receive rent payable in money, and the appointment is not made within a reasonable time, and

(*c*) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of rent which he belives to be due; and that officer shall receive the deposit, if it appears to him, after examining tha applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable for the issue of the notice next hereinafter referred to.

10. (1) Where a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

Effect of depositing rent.

(2) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this clause shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

11. Every tenant from whom, except under any special enactment for the time being in force, anything is levied by his landlord in excess of the rent legally payable, shall be entitled to recover from the landlord such sum as the Court thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value.

Penalty for levy of anything in excess of rent by landlord.

12. If a landlord refuses a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made, or the amount paid, the tenant shall be entitled to recover from him such sum, not exceeding double the amount or value of the rent so paid, as the Court thinks fit.

Penalty for refusing receipt, or giving defective receipt.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Enhancement of rent when productive power of holding increased by landlord.

14. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant, or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or other like calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution, or deterioration.

Power to alter rent when holding is increased, diminished, or deteriorated.

15. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

Power to alter rent in case of new assessment.

(a) land-revenue is for the first time made payable in respect of the holding, or

(b) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

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a Revenue-officer may, notwithstanding anything in the record-of rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

Commutation of rent payable in kind.

16. (1) In all cases in which an absolute occupancy-tenant or occupancy-tenant pays rent for a holding in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time, if the Chief Commissioner thinks fit to appoint a Revenue-officer in this behalf, to that officer, to commute the rent to a fixed money-rent.

(2) On the receipt of the application, the officer shall determine the sum to be paid as money-rent, and shall order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(3) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

C.—Of the Landlord's Lien on the Produce of Holding.

Definition of produce of a holding.

17. In sections eighteen to twenty-four (both inclusive) the produce of a holding means—

(*a*) crops and other products of the earth standing or ungathered on the holding;

(*b*) crops and other products of the earth which have been grown on the holding, and have been reaped or gathered, and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

18. Where an arrear is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding.

Provided that—

first, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Court; and

secondly, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

Contents and service of notice; time for which it remains in force.

19. (1) Every notice under section eighteen shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order, or agreement, as the case may be, for the payment of that amount.

(2) The notice shall be served on the person in charge of the produce, and shall remain in force until the rent specified in the notice is paid, or, if that rent is not previously paid, until the expiration of thirty-five days from the date of service of the notice.

Right to reap, &c., produce not affected.

20. A notice under section eighteen shall not prevent any person from reaping, gathering, or storing any produce, or doing any other act necessary for its due preservation.

Effect of instituting suit for rent while notice is in force.

If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

Procedure when produce is under attachment.

22. (1) If the produce of the holding on which the arrear is due is under attachment by order of a Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application; and

(*b*) the instalment of rent falling due next after the time at which in ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(2) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict between rights of superior and inferior landlord.

23. Where land is sublet, and any conflict arises under sections eighteen to twenty-two (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

Penalty for illegal distraint by landlord, and for illegal removal of produce.

24. (1) Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing, or otherwise dealing with any produce of the holding, and

where a notice in respect of the produce of a holding has been served under section nineteen, and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove, or abets the removal of the produce, except for any of the purposes mentioned in section twenty,

shall be punished with fine which may extend to five hundred rupees.

(2) Nothing in this section, and, except as provided in section 546 of the Code of Criminal Procedure, no proceeding under this section, shall affect the right of any person to recover compensation in a civil suit.

D.—Commissions for dividing or estimating Crops.

Commission for dividing or estimating crops.

25. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate, or appraisement, or if there is a dispute about the division of the produce or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate, or appraise the crop.

Appointment of assessors, &c.

26. (1) When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section twenty-five, the officer may, in his discretion, direct the Commissioner to associate with himself any other persons as assessors, and may give

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him instructions regarding the number, qualifications, and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate, or appraisement.

(2) The Commissioner so appointed shall make the division, estimate, or appraisement in accordance with those instructions.

Remedy for error in division.

27. (1) If in any division under the foregoing provisions either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

(2) If no such suit is instituted within the said period of three months, the division shall, for all purposes, be deemed as between the parties thereto to have been rightly made.

Procedure when crop has been estimated or appraised.

28. (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(2) The Revenue-officer shall consider the Commissioner's report, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement, and that order shall be final.

E.—Of Improvements, and Compensation therefor.

Right to make improvements.

29. (1) In respect of the holding of an absolute occupancy-tenant, or occupancy-tenant, the tenant, and in respect of the holding of an ordinary tenant, the landlord, shall be entitled to make improvements.

(2) If an ordinary tenant whose holding does not consist entirely of sir-land, or the landlord of an absolute occupancy-tenant or of an occupancy-tenant. desires that any improvement be made in respect of the holding, he may deliver, or cause to be delivered, to his landlord or tenant, as the case may be, a request in writing calling upon him to make the improvement within a reasonable time, and, if he is unable or neglects to comply with that request, may, subject to such rules of procedure as the Chief Commissioner from time to time, by notification in the official Gazette, prescribes in this behalf, make the improvement himself.

Liability to pay to tenant on ejectment compensation for improvements.

30. (1) If an absolute occupancy-tenant, occupancy-tenant, or ordinary tenant, is ejected from his holding, he shall be entitled to compensation for improvements which he or the persons under whom he claims may have made in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, and for which compensation has not already been made.

(2) Whenever a Court makes a decree or order for the ejectment of a tenant, it shall determine the amount of compensation (if any) due under this section to the tenant for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a

contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before this Act comes into force, in lands other than sir-land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment of compensation.

31. (1) The Chief Commissioner may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under section thirty for an improvement, such number of assessors as the Chief Commissioner thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section thirty for an improvement, regard shall be had—

(*a*) to the amount by which the letting value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the labour and capital required for the making of such an improvement; and

(*c*) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

(3) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Avoidance of provisions barring right to make, or be compensated for, improvements.

32. An entry in the record-of-rights of any village or a stipulation in a contract providing—

(*a*) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, such improvements on his holding as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

F.—Miscellaneous.

Surrender of holdings.

33. (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(2) But, notwithstanding the surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(3) In the following cases, the Court shall presume that such notice was so given, that is to say:—

(*a*) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(*b*) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and

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(c) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

Where land uncultivated and rent unpaid tenant's right to be deemed surrendered.

34. Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding:

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land, shall be excluded.

Tenant taking thíká or farm.

35. When a person, at the time of taking a thíká or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thiká or farm.

CHAPTER III.

Of Absolute Occupancy-tenants.

Definition of absolute occupancy-tenant.

36. Every person who, on the day when this Act comes into force, is the tenant of any holding in respect of which he, or a person whose rights he has acquired, has been recorded in any record-of-rights made before that day as an "absolute occupancy-raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed for period of settlement.

37. (1) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlements, except under the provisions of section thirteen, section fourteen, or section sixteen.

(2) The rent payable by any such tenant in respect of his holding when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which his holding is comprised.

Right heritable and transferable after notice to landlord, who may claim to purchase.

38. (1) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(2) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(3) If the intended transfer is by sale or gift, the landlord may, within the said period of one month—

(a) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix; or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(5) When the right of an absolute occupancy-tenant in his holding is sold by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by sub-section (3), clause (a).

(6) When an application is made to a Revenue officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be void.

Absolute occupancy-tenant not liable to ejectment.

39. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first charge on holding.

40. The rent of the holding of an absolute occupancy-tenant shall be a first charge on that holding.

CHAPTER IV.

Of Occupancy-tenants.

Definition of occupancy-tenant.

41. Every tenant who, when this Act comes into force, has held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is, when this Act comes into force, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nimár, and Sambalpúr, shall be deemed to be an occupancy-tenant of that land:

Provided that the land is not—

(a) sír-land, or

(b) held in lieu of wages, or

(c) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired, or that the tenant shall quit the land at the termination of the lease.

Explanation I.—The occupation of any person from whom the tenant inherited his holding is, for the purposes of this section, deemed to be the occupation of the tenant.

Explanation II.—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical redistribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

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Cases in which ex-proprietors become occupancy-tenants of their sír-land.

42. Every person whose proprietary rights in land comprising sír-land are, after this Act comes into force, transferred in any of the following cases, namely :—

(a) when he sells those rights without expressly agreeing to transfer his right to cultivate the sír-land,

(b) when those rights are sold for an arrear of land-revenue,

(c) when those rights are sold in execution of any decree which does not expressly direct the sale of his rights in the sír-land,

shall become an occupancy-tenant of that sír-land, and the rent payable by him as such shall be fixed by a Revenue-officer on application made by him or by his landlord.

Devolution and transfer of occupancy-right.

43. (1) When an occupancy-tenant dies, his right in his holding shall devolve as if it were land: provided that, except in the districts of Chánda, Nimár, and Sambalpúr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co sharer in the holding.

(2) A transaction by which an occupancy-tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease, or otherwise, shall be void, unless—

(a) it is entered into with his landlord's consent, or

(b) the transfer is one to a person who, if he survived the tenant, would inherit the right of occupancy, or between persons in favour of whom, as co-sharers, the right of occupancy originally arose, or who have become, by succession, co-sharers therein ;

(3) The right of an occupancy-tenant shall not be sold in execution of a decree.

Rent of occupancy-tenant to be fixed at settlement.

44. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Fixation of rents during currency of settlement in Chánda, Nimár, and Sambalpúr.

45. (1) In the districts of Chánda, Nimár, and Sambalpúr, the rent fixed under section forty-four shall not be altered during the currency of any settlement, except under section thirteen, section fourteen, or section sixteen.

(2) The rent payable in respect of his holding by a tenant in any of those districts when this Act comes into force shall be deemed to have been fixed at the last preceding settlement of the area in which that holding is comprised.

(3) Subject to the provisions of sections thirteen, fourteen, and sixteen, the rent payable by any such tenant in respect of a holding acquired by him after this Act comes into force shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquires that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say :—

(a) in the districts of Chánda and Nimár, the rate which the Chief Commissioner has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the last settlement ;

(b) in the district of Sambalpúr, the average rate at which at the last settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

46. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency of a settlement, on the application of the landlord to a Revenue-officer, be enhanced subject to the rules made under section eighty-two and for the time being in force :

Enhancement during currency of settlement in other districts.

Provided that—

(*a*) An application under this section shall not be entertained when the rent of the holding has, within the ten years immediately preceding the application, been fixed under any provision of this Act except section thirteen or section fourteen, or under any Act hereby repealed ; and

(*b*) no order shall be made on any such application which is inconsistent with any contract made after the last preceding settlement and still in force.

47. When the land in respect of which an application is made under section forty-five or section forty-six has been improved in accordance with this Act by the agency or at the expense of the tenant, the quality and advantages of the land shall, notwithstanding anything contained in any contract or record-of-rights, be deemed, for the purposes of that section, to be the quality and advantages which the land would have had and enjoyed if the improvements had not been made.

Tenant's improvements how treated in fixing rent.

48. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be ejected from his holding by his landlord as such except,—

Grounds for ejectment.

(*a*) as hereinafter provided, for arrears of rent ; or

(*b*) in execution of a decreee of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes, or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

49. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re distribution, and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant changing land in accordance with village-custom.

50. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

Tenant changing land in other cases.

CHAPTER V.

OF SUB-TENANTS.

51. A tenant who holds land from another tenant is a sub-tenant of that land.

Definition of sub-tenant.

52. A sub-tenant shall, subject to the provisions sections seven, fourteen, and fifteen, hold on such terms as may be agreed upon between him and his landlord.

Tenure according to agreement.

CHAPTER VI.

OF ORDINARY TENANTS.

Definition of ordinary tenant.

53. Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant, or a sub-tenant, is an ordinary tenant.

Rent of ordinary tenant regulated by agreement.

54. An ordinary tenant shall, subject to the provisions of sections fourteen and fifteen, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Grounds on which an ordinary tenant may be ejected.

55. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

(*a*) as provided in the case of an occupancy-tenant in section forty-eight;

(*b*) in execution of a decree for ejectment passed on the ground that he has refused to agree to an enhancement of rent demanded by his landlord in accordance with the provisions next hereinafter contained, or that the holding consists entirely of sír-land.

Notice of enhancement to be served through Civil Court.

56. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sír-land, and whose rent is not fixed by an agreement in writing, and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant through the Civil Court a notice of the enhancement not less than six months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Liability of tenant to ejectment in default of his agreeing to enhancement.

57. (1) If, within the period of one month from the service of a notice under section fifty-six, the tenant on whom the notice has been served presents to the Court issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

(2) If the tenant does not, within the said period of one month, present to the Court a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, institute a suit to eject the tenant.

Procedure in ejectment-suit.

58. (1) If in any suit instituted under section fifty-seven the defendant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected, but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the agreement.

(2) If the defendant does not appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Court may pass a decree for his ejectment on condition that, within fifteen days from the date of the decree, the landlord deposits in Court—

(*a*) such sum (if any) as may be declared by the decree to be payable to the tenant as compensation for improvements; and

(*b*) a further sum as compensation for disturbance equal to seven times the yearly increase of rent demanded.

Conditions on which ejectment-decree is to be executed.

59. (1) If these sums are so deposited, the decree shall be made absolute, and the sums deposited shall be paid to the tenant.

(2) If these sums are not so deposited, the decree shall become void, and the tenant shall remain in occupation of his holding at the rent previously paid by him.

Fresh proceedings not to be taken for seven years.

60. When a tenant has agreed, under section fifty-seven or section fifty-eight, to pay an enhanced rent for his holding, or a decree to eject him from that holding has become void under section fifty-nine, no notice shall be served on him under section fifty-six in respect of that holding during the seven years next following the date on which he has so agreed, or the decree has become void, as the case may be.

Devolution and transfer of ordinary tenancy.

61. (1) When an ordinary tenant dies, his right in his holding shall devolve as if it were land:

Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(2) A transaction by which an ordinary tenant attempts to effect a transfer of property in respect of his holding by sale, gift, mortgage, sub-lease, or otherwise, shall be void, unless it is entered into with his landlord's consent.

(3) The right of an ordinary tenant shall not be sold in execution of a decree.

Obligation of landlord to confer occupancy-rights on ordinary tenant.

62. (1) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to twice and one-half the annual rent payable in respect to the holding, together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of the holding; and when those rights have been so conferred, the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section forty-six, at the rate at which rent was payable by the tenant at the date of the request and tender:

Provided that the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer to fix the rent of the holding for the purposes of this section; and if he proves to the satisfaction of the officer that the rate of rent payable in respect of the holding is less than the rate usually paid by ordinary tenants of holdings situate in the same or adjoining tahsils for land of similar quality with like advantages, the officer shall fix the rent at the latter rate, and the rent so fixed shall, for the purposes of this section, be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant.

(2) If a landlord, to whom a request and tender is made by a tenant under sub-section (1), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the Court of a Revenue-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(3) The officer, after giving notice of the application to the landlord, and hearing him if he appears, and making such inquiry as he thinks necessary, may execute any instrument required for conferring those rights upon the tenant, and the execution shall have the same effect as an execution by the landlord.

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(4) A person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of sir-land.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction of Civil Courts barred in certain cases.

63. No Court other than the Court of a Revenue-officer or Settlement-officer shall fix any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in which any of the following applications might be made, namely:—

(*a*) applications for permission to deposit rent in Court (section nine);

(*b*) applications to enhance rent on account of improvements made by, or at the expense of, the landlord (section thirteen);

(*c*) applications to alter the rent of a holding on account of increase or diminution or deterioration of the holding, or of a new assessment of revenue (sections fourteen and fifteen);

(*d*) applications for the commutation of rents paid in kind (section sixteen);

(*e*) applications for a commission to divide, estimate or appraise a crop (section twenty-five):

(*f*) applications to fix the price at which a landlord may purchase in case of an intended transfer (section thirty-eight);

(*g*) applications to fix rent or confer occupancy-rights (section sixty-two);

(*h*) applications to measure or ascertain the condition of holdings (section eighty); and

(*i*) applications relating to such other matters as Revenue-officers or Settlement-officers are empowered to deal with under this Act or the rules made under this Act.

Procedure on applications Revenue and Settlement-officers, and appeals from their orders.

64. (1) In fixing rents and disposing of the maters referred to in section sixty-three, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881.

(2) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in section sixty-three, an appeal shall lie as if that decision or order had been passed by that officer under the said Land-revenue Act.

Jurisdiction of Civil Courts in suits between landlords and tenants.

65. Except as provided in section sixty-three, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such:

Provided that—

(*a*) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suit; and

(*b*) the Chief Commissioner may, from time to time, subject to the provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as he thinks fit, and not otherwise.

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Power to direct that suits between landlords and tenants be entered in separate register.

66. The Chief Commissioner may, from time to time, direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the Code of Civil Procedure, but in such other registers as he may prescribe.

Plaint in such suits.

67. (1) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in section 50 of the Code of Civil Procedure, specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent, and the instalments in which it is payable.

(2) When the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed, unless for special reason.

68. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs, unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

Set-off when allowed in suits for arrears.

69. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Interest on arrears.

70. In suits for arrears, interest on the arrears may be allowed up to the date of institution, at such rate, not exceeding twelve per cent. per annum, as the Court thinks fit.

No appeal in certain suits for arrears.

71. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class, as defined in the Central Provinces Courts Act, 1865, shall not be subject to appeal, unless—

(*a*) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or

(*b*) a question relating to a title to land, or some interest in land, has been determined as between parties having conflicting claims thereto.

Ejectment for non-payment of an arrear due under a decree.

72. (1) If a decree for an arrear is passed against a tenant other than an absolute occupancy-tenant, and remains unsatisfied, the landlord may, at any time before the execution of the decree is barred by limitation, apply to the Court having authority to execute the decree to cause a notice to be served on the tenant, directing him either to pay the amount due under the decree not later than the expiration of the agricultural year, or to surrender his holding not later than that time.

(2) If that amount is not so paid, and the holding is not so surrendered, the Court may in its discretion, but subject to the provisions of this Act, make an order to eject the tenant from the holding.

Power of Court to deal with cases of drought or other calamity in suits for arrears.

73. (1) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail, or other extraordinary calamity beyond his control,

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the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(2) In any such case the Court may order that the provisions of section seventy-two shall not apply to the decree.

(3) In making a decree under this section the Court shall have regard to—

(*a*) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued; and

(*b*) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been suspended or remitted on account of drought, hail, or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

Relief against forfeitures.

74. (1) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach, and whether, in the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, extend a period fixed by it under sub-section (2) for remedying a damage or breach.

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of ejected tenant in respect of crops and land prepared for sowing.

75. The following rules shall be applicable in the case of every tenant ejected from a holding:—

(*a*) Where the tenant has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting, and tending the crops, together with reasonable interest thereon.

(*b*) When the tenant has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops

in that land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon:

Provided that a tenant shall not be entitled to retain possession of any land, or receive any sum in respect thereof under this section, when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage.

Payment by tenant for occupation of land under section 75.

76. When a landlord elects, under section seventy-five, clause (*a*), to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court may deem reasonable.

All claims between landlord and tenant to be determined in ejectment proceedings.

77. In all suits and proceedings for ejectment, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such.

Procedure when, on ejectment, money is due by the landlord to the tenant.

78. (1) When it appears to a Court making an inquiry under section seventy-seven that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

(2) If it is so paid within the time specified, the Court shall eject the tenant; and

if it is not so paid, the Court shall refuse to eject the tenant.

Ejectment-decrees and orders to have effect from beginning of agricultural year.

79. All decrees and orders for ejectment under this Act shall take effect from the beginning of the agricultural year next following the date of the decree or order.

Applications to measure or ascertain condition of holdings.

80. (1) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof, or to the state of the holding at any specified time, be recorded, he may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

(*a*) make, or cause to be made, such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or

(*b*) (where the applicant seeks to have evidence recorded) record that evidence:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

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Limitation in suits by tenant to recover possession.

81. The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected shall be two years from the date on which he is ejected.

In other respects the limitation of every such suit shall be governed by the Indian Limitation Act, 1877.

CHAPTER VIII.

POWER TO MAKE RULES.

Rules by Chief Commissioner.

82. The Chief Commissioner may, from time to time, by notification in the official Gazette, make rules consistent with the provisions of this Act—

(*a*) for the guidance of Revenue-officers and Settlement-officers in fixing, altering, and commuting rents; and

(*b*) for the guidance of all other persons in matters connected with the enforcement of this Act.

SCHEDULE.

(*See section 2.*)

ACTS REPEALED.

Number and year of Act.	Title.
Act X. of 1859	To amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.
Act XIV. of 1863 ...	To amend Act X. of 1859.
Act XXII. of 1872 ...	To explain and amend Act X. of 1859.

ACT NO. X. OF 1883.

1883.
Act 10.

RECEIVED THE G.-G.'S ASSENT ON THE 18TH JULY 1883.

An Act to confirm and give effect to an award made by His Excellency the Viceroy and Governor-General regarding certain matters in dispute between Sardár Bikráma Singh and the Kapúrthhala State.

Preamble.

WHEREAS Sardár Bikráma Singh, in recognition of his services, received from the British Government a grant of land in Oudh forming part of the Akúna Estate; and that land was, with his consent, settled in the name of the Rájá of Kapúrthhala;

and whereas the Rájá of Kapúrthhala took possession of that land, and Sardár Bikráma Singh was unable to recover possession thereof by process of law;

and whereas His Highness Rájá Kurruck Singh of Kapúrthhala and Sardár Bikráma Singh agreed that all claims preferred by Sardár Bikráma Singh to and on account of the said land should be referred to Sir Henry Davies, the then Chief Commissioner of Oudh, for decision as arbitrator, and those claims were referred to Sir Henry Davies accordingly;

and whereas Sir Henry Davies, on the sixth day of January, 1871, delivered the following award, hereinafter called the first award (namely):—

"My award is that Rájá Kurruck Singh of Kapúrthala, his heirs, executors, or assigns, shall pay, within six months of the present date, in trust to the Chief Commissioner and to the Financial Commissioner of Oudh for the time being, and to the Commissioner of the Faizábád Division for the time being, jointly on behalf of Sardár Bikráma Singh and the heirs male of his body (if any), the sum of five lákhs of rupees, to be invested, as early as practicable, by the aforementioned trustees in the purchase of land within the Province of Oudh. Such land, when purchased, shall be immediately delivered into the possession of Sardár Bikráma Singh, and shall be held by him and by the heirs male of his body, if any, in proprietary right. But in the event of Sardár Bikráma Singh dying without heirs male of his body, the proprietary right in all such land shall revert unconditionally to the Rájá for the time being of Kapúrthhala.

"If the Rájá of Kapúrthhala, his heirs, executors, or assigns, fail to pay to the trustees the sum of five lákhs of rupees within six months from the present date, possession of the fifty-five hadbast circles detailed in the list hereto appended shall be given to Sardár Bikráma Singh; and all these hadbast circles shall be held by him as mortgagee until the whole sum of five lákhs of rupees shall have been paid to the trustees.

"Furthermore, the Rájá of Kapúrthhala, his heirs, executors, or assigns, shall pay to Sardár Bikráma Singh, within one month from the present date, the sum of fifty thousand rupees in full liquidation of all claims to the mesne-profits of past years. On the expiry of one month, such sum, if still unpaid, will bear interest at the rate of 12 per cent. per annum."

Addendum to award.

"To obviate doubts, I declare that, firstly, the words 'heirs male' mean only the sons of a woman belonging to the ahl-sí-birádirí of Sardár Bikráma Singh; secondly, Sardár Bikráma Singh shall, prior to the birth of an heir male of his body, have no power to mortgage or sell his interest in the estate purchased for him by the trustees without offering it in the first instance to the Rájá of Kapúrthhala for the time being.

"This addendum shall be read as part of my award";

and whereas doubts arose as to the meaning of that award, and, with the consent of the parties concerned, the matters in dispute were submitted to His Excellency the Viceroy and Governor-General of India for decision;

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and whereas, in accordance with this submission, His Excellency the Viceroy and Governor-General considered those matters, and on the third day of March 1881 made the following award, hereinafter called the second award (namely) :—

"My award is that the estates already purchased and to be purchased shall (the aid of the legislature being invoked if necessary) be so settled that they shall be the property of Bikráma Singh, subject to the following conditions and restrictions :—

"*First.*—No alienations of, or right (other than a right of tenancy subject to rent, or a right incidental to such a tenancy) created over, the estates or any part thereof by Bikráma Singh shall be valid for any period beyond his life.

"*Secondly.*—If Bikráma Singh at his death leaves a male heir of his body surviving him, the succession to the estates shall take place according to the proper law of inheritance; but the estates shall not be chargeable with, or liable to be applied in satisfaction of, any debts incurred by Bikráma Singh, nor shall any person succeeding under this clause be liable, by reason of such succession, for any such debt.

"*Thirdly.*—If Bikráma Singh at his death leaves no male heir of his body surviving him, the estates shall pass to the then Rájá of Kapúrthala.

"*Fourthly.*—If any lease or other contract fixing rent is granted to, or made with, a tenant by Bikráma Singh for a term, and Bikráma Singh dies before the expiration of such term, or if any such lease or contract is so granted or made in perpetuity, the rent of such tenant shall, notwithstanding anything contained in such lease or contract, be subject on the death of Bikráma Singh to enhancement from time to time on the same grounds, subject to the same conditions and according to the same procedure as if such tenant were a tenant with a right of occupancy; but if the rent is enhanced under this clause, the tenant may at any time thereafter rescind such contract";

and whereas it is expedient to confirm the second award and give effect to the same;

and whereas, in obedience to the first award, the sum of five lákhs of rupees was paid by the said Rájá Kurruck Singh to the then Chief Commissioner and Financial Commissioner of Oudh and the then Commissioner of the Faizábád Division, and has been by them or by their successors in office invested in the lands specified in the schedule hereto annexed;

and whereas it is expedient to settle the said lands in accordance with the terms of the second award;

and whereas the first award, in so far as it has not already been executed, will be superseded by the second award and this Act, and it is therefore expedient to rescind the first award; It is hereby enacted as follows :—

Short title. Commencement.

1. This Act may be called Bikráma Singh's Estates Act, 1883, and shall come into force at once.

Rescission of first award, and determination of trust created thereby.

2. The first award is hereby rescinded; the trusts created thereunder shall be deemed to have been fully executed and determined; and the trustees thereunder shall be deemed to have been discharged.

Confirmation of second award.

The second award is hereby confirmed.

Lands in schedule to be deemed settled in accordance with second award.

3. The lands specified in the schedule hereto annexed shall vest in Sardár Bikráma Singh, and shall be deemed to be settled as required by the second award.

SCHEDULE.

Lands vested in Sardar Bikrama Singh.

(See section 3.)

District.	Tahsil.	Pargana.	Hadbast number.	Name of village.
Sitapur ...	Sitapur ...	Sitapur ...	34	Aithalia.
			23	Arhbanian.
			37	Amypur.
			627	Victoria.
			463	Clarknagar.
			25	Alsia.
		Khairabad..	75	Barabhari.
			442	Aishbagh.
			558	Mirnagar.
	Misrikh ...	Maholi ...	190	Pitampur.
			136	Beadonpur.
			187	Pragpur.
			410	Isanagar.
			208	Tulshipur.
		Misrikh ...	341	Rahmatpur.
Rai Bareli ...	Dalmau ...	Dalmau ...	29	Bichia Abadi.
		Saraini ...	56	Baruáhár.
			59	Bandaie.
			57	Bahadurpur.
			208	Dariapur.
			171	Rampur Kalan.
			257	Rewari Pasia Khera.
			314	Saidapur.
			334	Firozpur.
			366	Kanjas.
			365	Kalehgaon with Chak.
			413	Lakhangaon with Chak.
			480	Haibatpur Khurd.
			477	Hilauli.
			476	Hathuasa.
		Khiron ...	8	Aiendhi.
			452	Malpur.
	Rai Bareli ...	Rai Bareli ...	28	Balehpur.

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ACT NO. XI. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 25TH JULY 1883.

An Act to give power to reduce port-dues in the port of Bombay.

WHEREAS the rate of port-dues leviable under the Indian Ports Act, 1875, on vessels entering the port of Bombay cannot, consistently with the entry in the third column of the first schedule of that Act in respect of the said port, be fixed at less than two annas per ton, and whereas, having regard to the present receipts and charges on account of that port, the rate of two annas per ton is unnecessarily high, and it is not expedient that a limit should be placed to the reduction of port-dues in the said port: It is hereby enacted as follows :—

In the Indian Ports Act, 1875, first schedule, for the first entry in the third column in respect of the port of Bombay, the following shall be substituted :—

"Not exceeding four annas per ton for each class of vessels as the Trustees incorporated under the Bombay Port Trust Act, 1879, may, from time to time, direct."

ACT NO. XII. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH AUGUST 1883.

An Act to provide for the licensing and control of pilots in British Burma and for investigating certain charges against them.

Preamble.

WHEREAS it is expedient to provide for the licensing and control of pilots in British Burma, and for investigating certain charges against them; It is thereby enacted as follows :—

Preliminary.

Short title.

1. (1) This Act may be called the British Burma Pilots Act, 1883.

Local extent.

(2) It extends to the territories for the time being administered by the Chief Commissioner of British Burma; and

Commencement.

(3) It shall come into force on such date as the Chief Commissioner may fix in this behalf.

Definition of "port."

2. In this Act "port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1875, is for the time being in force.

Licensing of Pilots

Licensing of pilots.

3. The Chief Commissioner may, from time to time, appoint, or cause to be appointed, competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and make rules—

(*a*) for the conduct of the examinations and for the qualifications to be required;

(b) establishing grades of pilots, and determining the duties which may be undertaken by pilots of each grade;

(c) for the grant to qualified persons of licenses to act as pilots of any grade at any port; and

(d) for the fees to be paid for the examinations and licenses.

No person to act as pilot except under license.

4. (1) A person shall not act as a pilot at any port, after such date as the Chief Commissioner may fix in this behalf for that port, except as permitted by a license granted under section 3.

(2) Any person acting as a pilot in contravention of this section shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Regulation of Pilots.

Power to make rules to regulate conduct of pilots.

5. (1) The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, make rules to regulate the conduct of pilots licensed under this Act in all matters connected with the performance of their duties as such pilots.

(2) Any such rule may contain a provision that a pilot committing a breach of the rule shall be punished with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both:

Provided that a prosecution shall not be instituted in respect of any such breach except by order of such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

Special Court.

Power to direct investigation by special Court into charges against pilots.

6. (1) If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed under this Act with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section 5, and that the charge cannot be satisfactorily investigated by an ordinary Court, he may direct that a special Court be constituted, under this Act, at the port at which it will, in his opinion, be most convenient for the parties and witnesses to attend, and shall then send to the Court a statement of the grounds of the charge, and direct the Court to make an investigation into the charge.

(2) When the Chief Commissioner directs an investigation under this section, he may, if he thinks fit, appoint a person to act as prosecutor in the investigation.

Constitution of Court.

7. Every Court constituted under section 6 shall consist of a president sitting with three assessors.

Appointment of president.

8. (1) The president shall be such person as the Chief Commissioner appoints in this behalf, either generally or for any specified case.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

Assessors.

9. One of the assessors shall be a master of a seagoing vessel lying in the port at which the investigation is to be made, another shall be a merchant residing at that port, and the third shall be a person who has personally exercised the calling of a pilot for not less than five years.

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Appointment of assessors.

10. (1) The assessor who is the master of a seagoing vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the president.

(2) The other assessors shall be summoned by the president in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette.* If there are no such lists, or if it is impracticable to procure the attendance of two persons one of whom is named in the list of merchants and the other in the list of pilots, the other assessors or assessor, as the case may be, shall be appointed and summoned by the president.

Fees to be paid to assessors.

11. The assessors shall receive such fees as the Chief Commissioner may, from time to time, by rule, prescribe.

Copy of grounds of charge to be supplied to pilot.

12. Before any investigation under this Act is commenced, the special Court shall supply the pilot with a copy of the statement sent, under section 6, to the Court.

Person charged to be heard.

13. For the purpose of an investigation under this Act, the special Court may summon the pilot to appear before it, and shall give him full opportunity of making a defence, either in person or otherwise.

Powers of the Court as to evidence and regulating proceedings.

14. For the purpose of an investigation under this Act, the special Court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents, and the regulation of the proceedings, have the same powers as are exercisable by the principal Court of original criminal jurisdiction for the place at which the investigation is made.

Court to report to Chief Commissioner.

15. On the completion of the investigation, the special Court shall send to the Chief Commissioner a full report of the conclusions at which it has arrived. The report shall be in accordance with the opinion of the majority of the members of the Court, or, if the Court is equally divided, in accordance with the opinion of the president and with the member with whom he concurs. In the latter case, any member who does not concur in the report may separately record his opinion.

Power of Chief Commissioner to make rules.

16. (1) The Chief Commissioner may, from time to time, make rules to carry into effect the provisions of this Act with respect to the special Court, and in particular with respect to—

(*a*) the mode in which the president shall, under section 10, summon the assessors;

(*b*) the amount of the fees to be paid to the assessors; and

(*c*) the procedure of the Court.

(2) All such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Power to cancel, suspend, or reduce Licenses.

Power to cancel, suspend, or reduce license for misconduct, &c.

17. The Chief Commissioner may cancel or suspend, or reduce the grade of, any license granted to a pilot under this Act in the following cases, that is to say :—

(a) if the pilot is found guilty by a Criminal Court of any offence punishable under section 5, or of any other offence the commission of which, in the opinion of the Chief Commissioner, shows him to be unfit to discharge the duties of a pilot; or

(b) if, on considering a report submitted under section 15 of this Act, or transmitted under section 17 of the Indian Merchant Shipping Act, 1883, the Chief Commissioner is of opinion that the pilot is incompetent, or has been guilty of any misconduct in the discharge of his duty as pilot, or of any breach of a rule made under section 5 of this Act.

Power to suspend license pending trial or investigation.

18. When a prosecution has been instituted against a pilot under section 5, or an investigation has been ordered in respect of him under section 6, or an investigation affecting his conduct has been ordered under Chapter II. of the Indian Merchant Shipping Act, 1883, the Chief Commissioner may suspend his license until the trial is concluded or the report of the investigation is submitted or transmitted to the Chief Commissioner, as the case may be.

Delegation of Functions of Chief Commissioner.

Power to delegate functions of Chief Commissioner.

19. The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate his functions under section 6, section 8, section 10, sub-section (1), or section 18 to such person as he thinks fit.

ACT NO. XIII. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH SEPTEMBER 1883.

An Act to declare the law in force in certain lands which have been or hereafter may be ceded by the Baháwalpur State for occupation by the Indus Valley State Railway.

WHEREAS Act X. of 1880 (*to declare the law in force in certain lands annexed to the Multán District*) provides that all enactments which, on the second day of September 1879, were in force in the Multán District and not in force in the lands occupied by the Indus Valley State Railway, and the works, premises, and stations thereof, within the limits of the Baháwalpur State, which have been ceded to the British Government in full sovereignty by that State, and have been declared by the Governor-General in Council to be subject to the Lieutenant-Governorship of the Panjáb, and have, by the Lieutenant-Governor of the Panjáb, been annexed to the Multán District, shall be deemed to have come into force in the said lands on that day;

and whereas it is expedient to make like provision for certain other lands occupied by the same Railway, and the works, premises, and stations thereof, within the limits of the same State, which have, since the second day of September 1879, been ceded to the British Government in full sovereignty by the same State, and have been declared by the Governor-General in Council to be subject to the same Lieutenant-Governorship, and have, by the same Lieutenant-Governor, been annexed to the same District;

and whereas it is also expedient to make like provision for any lands to be hereafter occupied by the same Railway, and the works, premises, and stations thereof, within the limits of the same State, which may be ceded to the British Government in full sovereignty by the same State, and may be

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declared by the Governor-General in Council to be subject to the same Lieutenant-Governorship, and may by the same Lieutenant-Governor be annexed to the same or some other district;

It is hereby enacted as follows:—

Repeal of Act X. of 1880.

1. Act X. of 1880 is hereby repealed.

Law in force in Multán or other district to apply to ceded lands occupied by Indus Valley State Railway.

2. All enactments which, on the date on which any such lands as are referred to in the preamble to this Act have been, or may hereafter be, annexed to the Multán or any other district, were, or shall be, in force in that district, and not in the said lands, shall be deemed to have come, or, as the case may be, shall come, into force in the said lands on that date.

ACT NO. XIV. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH SEPTEMBER 1883.

An Act to provide for the Constitution of Local Boards in the North-Western Provinces and Oudh.

WHEREAS it is expedient to make better provision for the constitution of local bodies in each district in the North-Western Provinces and Oudh to administer the expenditure of that portion of the rates levied on land which is applicable to local purposes in that district, and of the income accruing from certain other sources of revenue which may, from time to time, be made applicable to the like purposes; It is hereby enacted as follows:—

Preliminary.

Short title.

1. (1) This Act may be called the North-Western Provinces and Oudh Local Boards Act, 1883.

Local extent.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and

Commencement.

(3) It shall come into force on the first day of November 1883.

Definition of "prescribed."

2. In this Act, unless there is something repugnant in the subject or context,—

"Prescribed' means prescribed by rules made under section 47.

Constitution of Local Boards and District Boards.

Formation of sub-districts.

3. (1.) The Local Government shall, by order in writing, for the purposes of this Act, divide each district into sub districts.

(2) There shall be excluded from the sub-districts formed under this section such portions of the district as are for the time being included in the limits of a military cantonment or of a municipality, and, unless the Local Government otherwise directs, the portions of the district (if any) in which Act XX. of 1856 (*An Act to make better provision for the appointment and maintenance of Police Chaukidárs in Cities, Towns, Stations, Suburbs, and Bázárs in the Presidency of Fort William in Bengal*) is in force.

(3) The Local Government may, from time to time, by order in writing, vary any order made under this section.

Establishment of local boards for sub-districts and of district boards for districts.

4. There shall be established for each sub-district a local board having authority over that sub-district, and for each district a district board having authority over the entire district, except such portions thereof as are excluded from the sub-districts under section 3, sub-section (2).

Constitution of local boards.

5. (1) The local board for a sub-district shall consist of so many elected members and so many nominated members as the Local Government may, from time to time, fix in this behalf:

Provided that the nominated members shall not exceed in number one-fourth of the board.

(2) The elective members of a local board shall be elected in manner prescribed.

(3) The persons entitled to vote at the election shall be nominated by the Local Government or determined in such other manner as may be prescribed:

Provided that the persons entitled to vote at the election of a member shall not be less than twenty-five in number.

(4) A person to be qualified for election must, at the time of his election, be an elector, and reside, or own landed property, or carry on trade or business, in the sub-district.

(5) The nominated members shall be such persons as the Local Government may, subject to the rules made under section 47, from time to time, nominate in this behalf.

Constitution of district boards.

6. (1) The district board for a district shall, except as next hereinafter provided, consist of all persons who for the time being are members of the local boards of the sub-districts comprised in that district.

(2) The Local Government may, if it thinks fit, by notification in the official Gazette, direct that the district board for a district shall consist of so many of the elected members of each local board as it thinks fit, elected in this behalf by the local board in manner prescribed, and such of the nominated members of each local board as the Local Government may appoint in this behalf:

Provided that the nominated members of local boards so appointed by the Local Government shall not exceed in number one-fourth of the district board.

(3) The Local Government may, by notification in the official Gazette, rescind any direction issued under sub-section (2) with effect from the date on which all the persons holding office as members of the district board at the date of the notification shall, under the provisions of this Act, have vacated their offices as such members.

Term of office of members of local boards and of certain district boards

7. (1) The term of office of a member of a local board and of a member of a district board elected or appointed under section 6, sub-section (2), shall be fixed, from time to time, by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election, nomination, or appointment.

Resignation of members of those boards.

8. A member of a local board and a member of a district board elected or appointed as aforesaid may resign by notifying in writing his intention to do so to the Local Go-

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vernment; and on the acceptance by the Local Government of such resignation, the member shall be deemed to have vacated his office as such member.

Removal of members of those boards.

9. The Local Government may, from time to time, remove any member of a local board or of a district board elected or appointed as aforesaid who refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the local board, or, when he is a member of the district board, without sufficient excuse neglects for more than six consecutive months to be present at the meetings of that board.

Filling of casual vacancies on those boards.

10. (1) When the place of an elected member of a local board or of a member of a district board elected as aforesaid becomes vacant by the resignation or removal of the member or by his death, a new member shall be elected in manner prescribed to fill the place:

Provided that the Local Government may, subject to the limitation of the proportion of nominated members of a local board fixed by section 5, and to the limitation of the proportion of appointed members of a district board fixed by section 6, direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a nominated member of a local board or an appointed member of a district board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 47, nominate or appoint, as the case may be, a new member to fill the place.

(3) A person elected, nominated, or appointed under this section to fill a casual vacancy, shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election, nomination, or appointment.

Incorporation of district board.

11. Every district board shall be a body corporate by the name of the district board of its district, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, to transfer any moveable property and, with the previous approval in writing of the Commissioner of the division, any immoveable property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Time for boards coming into existence.

12. The several local boards and district boards constituted under this Act shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Chairmen and Vice-chairmen.

Chairman of local board.

13. (1) Every local board shall, from time to time, elect one of its members to be chairman.

(2) The term of office of a chairman so elected shall be the residue of his term of office as a member of the board.

(3) If the chairman so elected dies, resigns, or is removed from his office as a member of the board, resigns the office of chairman, or becomes incapable of acting, the board shall elect another of its members to be chairman for

the period during which the person so dying, resigning, removed, or becoming incapable, would have been entitled to continue in office, and no longer.

(4) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, the members present shall elect one of their number to be chairman of the meeting.

Chairman of district board.

14. (1) Every district board shall, on first coming into existence, and thereafter whenever the term of office of its chairman expires under this Act, take into consideration, at a special meeting convened for the purpose within the time prescribed, the appointment of a chairman, and, if the meeting is attended by not less than three-fourths of the members of the board, may, by a majority of the members present,—

(*a*) determine whether the chairman shall be elected, or his appointment shall be left to be made by the Local Government, and

(*b*) if it is determined that the chairman shall be elected, elect one of its members to be chairman; and

the Local Government may, if it approves of the person so elected, declare him to be chairman of the board.

(2) If no such meeting is held within the time prescribed, or if three-fourths of the members of the board are not present at the meeting, or, where several meetings are convened under this section, at any of those meetings, or if no such election takes place, or if the person elected is not approved of by the Local Government, the Local Government shall appoint as chairman, by name or by virtue of his office, such person as it thinks fit.

Vice-chairman of district board.

15. At a special meeting held under section 14, or at another special meeting held for this purpose, the district board shall elect one or two of its members to be its vice-chairman or vice-chairmen.

Term of office of chairman and vice-chairman of district board.

16. (1) The term of office of an elected chairman of a district board shall be the residue of his term of office as member of the board.

(2) The term of office of an appointed chairman of a district board shall be such term, not exceeding three years, as the Local Government may, from time to time, by rule prescribe.

(3) The term of office of a vice-chairman of a district board shall be one year, or when at the time of his election the residue of his term of office as member is less than one year, the residue of that term.

Resignation of chairman and vice-chairman of district board.

17. (1) A chairman of a district board may resign by notifying in writing his intention to do so to the Local Government; and, on such resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

(2) A vice-chairman of a district board may resign by notifying in writing his intention to do so to the board; and, on such resignation being accepted by the board, he shall be deemed to have vacated his office.

Removal of chairman and vice-chairman of district board.

18. The Local Government may remove any chairman or vice-chairman of a district board from his office as such chairman or vice-chairman if he refuses to act, or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of

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character which unfits him to be chairman or vice-chairman, or if he, without sufficient excuse, neglects for more than six consecutive months to be present at the meetings of the board.

Casual vacancies in office of chairman or vice-chairman of district board.

19. (1) If an elected chairman of a district board dies, resigns, is removed, or becomes incapable of acting, a special meeting of the board shall be held within the period prescribed, and a new chairman shall be elected or appointed in manner provided by section 14.

(2) If an appointed chairman of a district board dies, resigns, is removed, or becomes incapable of acting, the Local Government shall appoint another chairman.

(3) If a vice-chairman of a district board dies, resigns, is removed, or becomes incapable of acting, the board shall, at a special meeting held for this purpose, select one of its members to be vice-chairman in his place.

(4) A chairman or vice-chairman elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office:

Provided that a person so elected shall go out of office on ceasing to be a member of the board.

Chairman appointed by Local Government to be member of district board.

20. Notwithstanding anything in the foregoing sections, a chairman appointed by the Local Government under section 14, sub-section (2), or section 19, sub-section (1) or sub-section (2), shall, if he is not already a member of the district board, become a member thereof by virtue of such appointment, and continue to be a member thereof while he holds the office of chairman.

Chairman of local board and chairman or vice-chairman of district board re-eligible.

21. A chairman of a local board, and a chairman or vice-chairman of a district board, if otherwise qualified, shall, on going out of office, be again eligible for election or appointment.

Person to preside at meeting of district board.

22. (1) At every meeting of a district board the chairman, if present, shall preside.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, and a vice-chairman is present, such vice-chairman, or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Notification of Elections, &c.

Notification of elections, &c.

23. All elections, nominations, and appointments of members of local boards and district boards, and of chairmen of district boards, and all vacancies in those offices, shall be notified in the local official Gazette.

Duties of District Boards.

Matters to be administered by district boards.

24. Every district board shall, so far as the funds at its disposal will permit, but subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, provide for the control and administration of the following matters within the area subject to its authority:—

(*a*) the construction, repair, and maintenance of public roads and other means of communication;

(b) the planting and preservation of trees on the sides of roads and on other public ground;

(c) the establishment, management, maintenance, and visiting of schools, hospitals, dispensaries, markets, staging-houses, inspection-houses, and other public institutions, and the construction and repair of all buildings connected with these institutions;

(d) the construction and repair of public wells, tanks, and water-works, and the supply of water from them and from other sources;

(e) the establishment and maintenance of such relief-works in time of famine or scarcity as may be entrusted to the charge of the board by the Local Government;

(f) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the district board by the Local Government;

(g) the management of such public ferries as may be entrusted to its charge under section 7A of the Northern India Ferries Act, 1878, as amended by this Act;

(h) the regulation of encamping grounds and, where the Saráis Act, 1867, is in force, of saráis and paráos, including such functions of the Magistrate of the district under that Act as the Local Government may, from time to time, direct;

(i) the institution, holding, and management of agricultural shows and industrial exhibitions:

(j) the maintenance of any building or other property which is vested under this Act in the district board, or may be placed by the Local Government under the management of that board; and

(k) any other local works or measures likely to promote the health, comfort, convenience, or interest of the public.

Duties of Local Boards and their Relations to District Boards.

Local board to be agent of district board.

25. Every local board shall, in the sub-district under its authority, be the agent of the district board, and, as such agent, shall have such authority and discharge such duties in respect of all or any of the matters specified in section 24 as the district board may, by written authority in that behalf, from time to time, confer or impose upon it.

Control of district board over local boards.

26. The district board may, by a resolution passed by two-thirds of the members present at a meeting, either on complaint made to it or of its own motion, reverse or vary any order or other proceeding of any local board within the district:

Provided that, except for reasons recorded in writing, no such resolution shall be passed until the local board has been allowed an opportunity of showing cause against the same.

Joint Committees.

Joint committees.

27. (1) A district board may, from time to time, concur with any other district board, or with the board of any municipality, or with a cantonment authority, or with more than one such board or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee, and in delegating to any such committee any power which might be exercised by either or any of the boards

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or authorities, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

Ordinary and special meetings.

28. (1) A meeting of a district board or local board shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting, unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

29. (1) The quorum necessary for the transaction of business at a special meeting of a district board or local board shall, except where otherwise provided by this Act, be one-half of the whole board.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a district board or local board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under this Act:

Provided that, if at any ordinary or special meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before and transacted at the adjourned meeting whether there is a quorum present thereat or not.

Vote of majority decisive.

30. (1) Except as otherwise provided by this Act or by any rule made under this Act, all questions coming before a meeting of a district board or local board shall be decided by a majority of the votes of the members present.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Certain officers entitled to attend and speak.

31. The Civil Surgeon of the district, the Executive Engineer of the division, and the Inspector of Schools of the circle, shall be entitled to attend any meeting of a district board, and to address the board on any matter affecting respectively sanitation, public works, and public instruction.

Resolutions to be recorded.

32. (1) Every resolution passed by a district board or local board at a meeting shall be recorded in a book kept for the purpose, and shall be signed by the chairman of the meeting or of the next ensuing meeting.

(2) A copy of every resolution passed by a local board at a meeting shall, within ten days from the date of the meeting, be forwarded to the district board.

(3) A copy of every resolution passed by a district board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Magistrate of the district.

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Power to make rules as to conduct of business.

33. Every district board, and, with the previous sanction of the district board, every local board, may, from time to time, make rules consistent with this Act and with any rules made under this Act by the Local Government as to—

(a) the time and place of its meetings;

(b) the quorum necessary for the transaction of business at ordinary meetings;

(c) the conduct of proceedings at meetings;

(d) the division of duties among the members of the board; and

(e) the persons by whom receipts may be granted on behalf of the board for money paid under this Act.

Officers and Servants.

Appointment of secretary.

34. (1) Every district board and every local board shall, from time to time, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person or persons, to be its secretary or secretaries, and may remove any person so appointed.

(2) If a secretary appointed under this section is a member of the board, he shall receive no remuneration in respect of his services. If he is not a member of the board, the district board may, with the previous sanction of the Commissioner of the division, assign to him such pay as it thinks fit.

Employment of other officers and servants.

35. Subject to the other provisions of this Act, and to such rules as the Local Government may, from time to time, make, prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, every district board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards in the district, and may assign to such officers and servants such pay as it thinks fit and as may be approved by the Commissioner of the division.

Pensions and allowances of Government officials serving boards.

36. In the case of a Government official, any district board may—

(1) if his services are wholly lent to it, contribute to his pension, gratuities, and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities, and leave-allowances in such proportion as may be determined by the Government.

Pensions and allowances of servants of boards.

37. In the case of a servant not being a Government official referred to in section 36, any district board may—

(1) grant him leave-allowances and, if his monthly pay is less than ten rupees, gratuities; and

(2) if empowered in this behalf by the Local Government—

(a) subscribe in his behalf for pension, gratuities, and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(b) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance, or annuity, shall exceed the sum to which, under the Government Civil Pension and Leave

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Codes for the time being in force, the servant would be entitled if the service had been service under the Government.

District Fund.

Constitution of district fund.

38. There shall be formed for each district a fund, to be called the district fund, and there shall be placed to the credit thereof—

(*a*) the balance (if any) of the allotments made for the district under section 11 of the North-Western Provinces Local Rates Act, 1878, or of the Oudh Local Rates Act, 1878, which may be available for expenditure in the district on the day on which the district board comes into existence;

(*b*) all sums which may, from time to time, be allotted by the Local Government to the district fund under section 11 of the North-Western Provinces Local Rates Act, 1878, or of the Oudh Local Rates Act, 1878, as amended by this Act;

and, subject to such exceptions and conditions as the Local Government may, from time to time, make and impose, the following, namely :—

(*c*) the surplus accruing in the district under section 18 of the Cattle-trespass Act, 1871;

(*d*) the proceeds of public ferries payable into the district fund under section 7A of the Northern India Ferries Act, 1878, as amended by this Act;

(*e*) receipts from encamping-grounds under the regulation of the district board;

(*f*) the sale-proceeds of grass and of the produce of trees on the sides of roads and on other public ground under the control and administration of the district board, and of timber fallen or felled thereon;

(*g*) receipts from property vested in the district board;

(*h*) rents and profits accruing from nazúl and other property placed by the Local Government under the management of the district board;

(*i*) other sums assigned to the district fund by the Local Government;

(*j*) sums contributed to the district fnnd by local bodies or private persons; and

(*k*) all other sums received by or on behalf of the district board in the carrying out of this Act.

Vesting, custody, and investment of district fund.

39. (1) The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government treasury of the district or in the bank to which the Government treasury business has been made over.

(2) Subject to such rules as the Governor-General in Council may, from time to time, make in this behalf, the district board may, from time to time, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor-General in Council may, from time to time, approve in this behalf, and vary such investments for others of the same nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the district fund.

Application of the district fund.

40. (1) The district fund shall be charged with the payment of the expenses incurred in auditing the accounts of the district and local boards, and such portion of the cost of the Provincial Departments for education, sanitation, vaccination, medical relief, and public works, as may be held by the Local Government to be equitably debitable to the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section (1), the district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 24, 34, 35, 36, and 37 within the area subject to the authority of the district board, and, with the sanction of the Local Government, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Control.

Control of Commissioner and Magistrate over boards and joint committees.

41. (1) The Commissioner of the division, or the Magistrate of the distsict when he is not a member of the district board, may—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any local board, district board, or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(*b*) call for and inspect any document in the possession or under the control of any such board or committee having authority within those limits;

(*c*) require any such board or committee to furnish such statements, accounts, reports, and copies of documents, relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(*d*) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) If any difference of opinion arises between officers exercising the powers conferred by sub-section (1), it shall be referred—

(*a*) if it arises between two or more Magistrates in the same division, to the Commissioner; and

(*b*) if it arises between two or more Magistrates in different divisions or between two or more Commissioners, to the Local Government;

and the decision thereon of the Commissioner or of the Local Government, as the case may be, shall be final.

Power of Commissioner to suspend action under this Act.

42. (1) A Commissioner may, by order in writing, suspend within his division the execution of any resolution or order of a local board, district board, or joint committee, and may prohibit the doing of any act which is about to be done or is being done within his division in pursuance of, or under cover of, this Act, if, in his opinion, such resolution, order, or act is in excess of the powers conferred by law, or the execution of such resolution or order, or the doing of such act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When the Commissioner makes any such order, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently, or for such period as it thinks fit.

Extraordinary powers of Magistrate in case of emergency.

43. (1) In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a district board or local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the district board.

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(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balance of the district fund to pay the expense, or as much thereof as is from time to time possible, from the balance, in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

Powers of Local Government in cases of default of district board.

44. (1) If at any time it appears to the Local Government that any district board has made default in performing, or has inefficiently performed, any duty imposed on it by this or any other Act for the time being in force, the Local Government may, by order in writing, direct the district board to perform that duty, or to take such measures as the Local Government may think proper for the performance thereof, and may fix a time within which the duty shall be performed or the measures shall be taken.

(2) If the order is not obeyed to the satisfaction of the Local Government within the time fixed, the Local Government may appoint the Magistrate of the district to execute it, and may direct that the expense of executing it shall be paid, within such time as it may fix, to the Magistrate by the district board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the district fund to pay the expense, or so much thereof as is from time to time possible, from the balance, in priority to any or all other charges against the same.

Power to supersede district board in case of incompetency, persistent default, or abuse of powers.

45. (1) If a district board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor-General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare the board to be in competent or in default, or to have exceeded or abused its powers, as the case may be, and superside it for a period to be specified in the order.

(2) When the district board of a district is so superseded, the following consequences shall ensue :—

(*a*) all members of the board and all members of the local boards of the district shall, as from the date of the order, vacate their offices as such members ;

(*b*) all powers and duties of the district board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf ;

(*c*) all property vested in the district board shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of supersession specified in the order, the local boards and district board shall be re-established, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for nomination, appointment, or election.

Liability of Members of Boards.

Liability of members for loss, waste, or misapplication.

46. A person shall be liable for the loss, waste, or misapplication of any money or other property belonging to the district board, if such loss, waste, or misapplication, is a

direct consequence of his neglect or misconduct while a member of a local board or of the district board; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Forms and Rules.

Power of Local Government to frame forms and make rules.

47. The Local Government may, from time to time, frame forms for any proceeding for which it considers that a form should be provided, and make rules consistent with this Act—

(*a*) as to the method and time of election of elective members of local boards, and, where a notification under section 6, sub-section (2), is in force, of elective members of district boards;

(*b*) as to the nomination of members of local boards under section 5;

(*c*) as to the mode of convening ordinary and special meetings respectively, the notice to be given of such meetings, the business that may be transacted at ordinary and special meetings respectively, and the majority by which any question which may come before a board at a meeting shall be decided;

(*d*) as to the division of duties among the members of the board;

(*e*) as to the mode of enterting into and executing contracts and transfers of property on behalf of district boards, and the authority on which money may be paid from the district fund;

(*f*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of district boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*g*) for the guidance of district boards when suits or other proceedings are intended to be, or have been, instituted by or against them in Civil Courts;

(*h*) as to the office or offices through which correspondence of, and with, local boards and district boards and representations to the Local Government under this Act shall pass;

(*i*) as to the accounts to be kept, and as to the manner in which those accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(*j*) as to the preparation of estimates of income and expenditure, and the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(*k*) as to the returns, statements, and reports to be submitted by local boards and district boards respectively;

(*l*) as to the language of the board;

(*m*) as to the qualifications requisite in the case of persons appointed to offices requiring professional skill; and

(*n*) generally, for the guidance of local boards, district boards, and officers of Government in all matters connected with the carrying out of this Act, and for settling their relations to one another.

Procedure for making rules.

48. The Local Government shall, before making any rules under section 47, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration, and shall,

before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Publication of rules.

49. Every rule made under section 47 shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by section 48.

Supplemental Provisions.

Acquisition of land.

50. Where any land is required for the purposes of this Act, the Local Government may, at the request of the district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the district board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the district board.

Penalty on member, officer, or servant being interested in contracts made with board or committee.

51. (1) If any member, officer, or servant of a local board, district board, or joint committee appointed under this Act, is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with such board or committee, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code:

(2) A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and a board or committee, but he shall not take part in any proceedings of the board or committee relating to any such contract.

Saving of Act XI. of 1879.

52. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Exceptional Provisions.

Power of Local Government to except local area from operation of Act.

53. If the circumstances of any district or part of a district are, in the opinion of the Local Government, such that all or any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the district or part from the operation of those provisions; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a like notification.

Case of sub-district excepted from provisions regarding election.

54. When a sub-district is excepted, under section 53, from the provisions of this Act requiring that a certain proportion of the members of a local board shall be elected, the Local Government may itself appoint all such members.

Administrative committee to be appointed for district wholly excepted from Act.

55. When a district is excepted, under section 53, from all the provisions of this Act, a committee shall be appointed for the control and administration in that district of the matters mentioned in section 24, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine the manner in which the members of the committee shall be appointed and removed, define the

functions and authority of the committee, and place at its disposal, subject to such control as the Local Government thinks fit, the amounts mentioned in clauses (a) and (b) of section 38, and such of the sources of income mentioned in the other clauses of that section as the Local Government thinks fit:

Provided that not less than one-half of the members of the committee shall be persons who own landed property, or reside or carry on trade or business, in the district, and are not in the service of Government.

Amendment of the North-Western Provinces Local Rates Act, 1878.

Section 11, clause (c), Act III. of 1878, amended.

56. For section 11, clause (c), of the North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely :—

"(c) Subject to the appropriation directed by clause (a), the Lieutenant-Governor may, from time to time, reserve from such fund such amounts as he thinks fit to be applied in or for the benefit of each district for expenditure on all or any of the following matters :—

(1) the maintenance of the village and road police and the district-post;

(2) the construction, repair, and maintenance of lunatic asylums;

(3) the registration of traffic; and

(4) any other matter tending to promote the welfare of the district which it is in his opinion necessary to place under provincial and not under local administration.

"(d) Subject as aforesaid, the Lieutenant-Governor may allot from such fund such amounts as he thinks fit to the district fund constituted under the North-Western Provinces and Oudh Local Boards Act, 1883:

"Provided that the amounts so reserved and allotted in any year for the benefit of any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section four and the first clause of section five in such district in such year."

Sections 12, 13, and 15 of same repealed.

57. Sections 12, 13, and 15 of the said North-Western Provinces Local Rates Act, 1878, are repealed.

New section substituted for section 14 of same.

58. For section 14 of the said North-Western Provinces Local Rates Act, 1878, the following shall be substituted, namely :—

Accounts to be kept.

"14. Accounts of the receipts in respect of all rates levied under this Act shall be kept in each district, and shall at all reasonable times be open to the inspection of the district board constituted for the district under the North-Western Provinces and Oudh Local Boards Act, 1883.

"An abstract of such accounts shall also be published annually in the local official Gazette."

Amendment of the Oudh Local Rates Act, 1878.

Section 11, clause (c), Act IV. of 1878, amended.

59. For section 11, clause (c), of the Oudh Local Rates Act, 1878, the following shall be substituted, namely :—

"(c) Subject to such appropriation, the Chief Commissioner may, from time to time, reserve from such fund such amounts as he thinks fit to be applied in, or for the benefit of, each district for expenditure on all or any of the following matters :—

(1) the construction, repair, and maintenance of lunatic asylums;

(2) the registration of traffic; and

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(3) any other matters tending to promote the welfare of the district which it is in his opinion necessary to place under provincial and not under local administration.

"(d) Subject as aforesaid, the Chief Commissioner may allot from such fund such amounts as he thinks fit to the district fund constituted under the North-Western Provinces and Oudh Local Boards Act, 1883:

"Provided that the amounts so reserved and allotted in any year for the benefit of any district shall not be less than one-half of the proceeds of the rates assessed in such district in such year."

Sections 12 and 14 of same repealed.

60. Sections 12 and 14 of the said Oudh Local Rates Act, 1878, are repealed.

New section substituted for section 13 of same.

61. For section 13 of the said Oudh Local Rates Act, 1878, the following shall be substituted, namely:—

Accounts to be kept.

"13. Accounts of the receipts in respect of all rates levied under this Act shall be kept in each district, and shall, at all reasonable times, be open to the inspection of the district board constituted for the district under the North-Western Provinces and Oudh Local Boards Act, 1883.

"An abstract of such accounts shall also be published annually in the local official Gazette."

Contracts made by, and Government Officers employed by, Committees under the North-Western Provinces and Oudh Local Rates Acts.

Contracts of local rates committees.

62. Every contract entered into, whether in its own name or in the name of the Government, by the committee appointed in a district under section 15 of the North-Western Provinces Local Rates Act, 1878, or section 14 of the Oudh Local Rates Act, 1878, may be enforced by and against the district board constituted for that district under this Act, in like manner as it might have been by and against the committee if this Act had not been passed.

Government officers serving under committees to continue under board.

63. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 12 of this Act shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government.

Amendment of the Northern India Ferries Act, 1878.

New section to follow section 7 of Act XVII. of 1878.

64. After section seven of the Northern India Ferries Act, 1878, the following shall be inserted, namely:—

In North-Western Provinces and Oudh, management may be vested in district board;

"7A. The Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh may direct that any public ferry wholly or partly within the area subject to the authority of a district board in any district in the North-Western Provinces or Oudh, as the case may be, be managed by that board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund of that district;

and proceeds paid into district fund.

"and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

65. In section six of the same Act, after the words "section seven," and in section seventeen of the same Act, after the words "section seven," where they first occur, the following shall be inserted, namely :—"and section 7A."

Amendments of sections 6 and 17 of same Act.

ACT NO XV. OF 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH SEPTEMBER 1883.

An Act to make better provision for the Organization and Administration of Municipalities in the North-Western Provinces and Oudh.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the North-Western Provinces and Oudh; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be called the North-Western Provinces and Oudh Municipalities Act, 1883.

Local extent.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and

Commencement.

(3) It shall come into force on the first day of November 1883.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(a) "Municipality" means a local area to which this Act has been applied under section 4 or section 5:

(b) "Honorary Magistrate" means a Magistrate who holds no salaried office in any department of the Government service:

(c) "Prescribed" means prescribed by rules made by the Local Government under this Act.

Notification of intention to apply Act.

3. (1) The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may from time to time determine, declare its intention to apply this Act to any town or to any group of towns in the immediate neighbourhood of one another.

(2) Every notification under this section shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building, or land in the vicinity of any such town:

Provided that it shall not, without the previous consent of the Governor-General in Council, so include any part of a military cantonment.

Application of Act.

4. (1) Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to the application of the Act, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

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(2) When six weeks from the publication of the notification in the Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, apply this Act to the local area.

Special rule as to application of Act to towns to which Act XV. of 1873 applies.

5. The Local Government may, by notification in the official Gazette, apply this Act to any local area which is a municipality established under the North-Western Provinces and Oudh Municipalities Act, 1873, and shall, within three months from the date on which this Act comes into force, so apply it to every such local area unless, before the expiration of that period,—

(a) the Act has been applied under section 4 to some local area in which that local area is comprised; or

(b) the Local Government has declared, by a notification in the official Gazette, that the provisions of this Act are unsuited to that local area.

CHAPTER II.

ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

Board to consist of elected and appointed members.

6. There shall be established for each municipality a municipal board having authority over that municipality, and consisting of—

(a) so many elected members as may be determined in manner prescribed, representing wards of the municipality or particular classes of the inhabitants; and

(b) such person or persons (if any), not exceeding in number one-fourth of the board, as the Local Government may, subject to the rules made under section 64, from time to time, appoint in this behalf.

Magistrate to convene meeting to determine system of election.

7. (1) The Magistrate of the district within which any municipality is situate shall, within one month from the date on which this Act has been applied to the municipality under section 4 or section 5, issue notices in writing to the persons mentioned in section 8, inviting them to meet at a time and place specified in the notices, for the purpose of preparing and submitting, within such further time not exceeding three months from the date of the meeting as the Local Government may fix in this behalf, proposals for determining the system of representation and election to be established in the municipality.

(2) The Local Government may, for special reasons, grant an extension, not exceeding one month, of the time fixed under this section for submitting proposals.

Persons to be invited to meeting.

8. Notices under section 7 shall be issued to the following persons, namely:—

(a) all Honorary Magistrates having jurisdiction within the limits of the municipality;

(b) when the municipality comprises any local area for which a municipal committee has been appointed under the North-Western Provinces and Oudh Municipalities Act, 1873, the members of that committee;

(c) when the municipality comprises any local area for which a pancháyat has been appointed under Act XX. of 1856, the members of that pancháyat; and

(d) any leading residents of the municipality not included under the foregoing clauses who in the opinion of the Magistrate of the district should be allowed to take part in the discussion:

Matters to be considered at the meeting.

9. The persons who meet in compliance with the notices issued under section 7 shall consider, and shall, within the time limited under that section, submit through the Magistrate of the district to the Local Government, proposals regarding the following matters, namely :—

(a) the division of the municipality into wards ;

(b) the number of representatives proper for each ward ;

(c) the provision (if any) to be made for the special representation of any classes of the community ;

(d) the qualifications of electors and of candidates for election ;

(e) the registration of electors ;

(f) the nomination of candidates, the time of election, and the mode of recording votes ; and

(g) any other matters regarding the system of representation and of election which it may seem to the meeting expedient to consider.

Power to Local Government to make rules regarding election.

10. (1) The Local Government shall, after taking into consideration the proposals (if any) submitted under section 9, make rules regulating the matters referred to in that section, and may, in making such rules, direct that the breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

(2) The Local Government may, after the municipal board has come into existence as hereinafter provided, from time to time amend, after consulting the board, the rules made under this section ; but no amendment made under this sub-section shall take effect until six months after it has been published in the official Gazette.

(3) Elective members of the board shall be elected in accordance with the rules made under this section and for the time being in force.

Term of office of member of board.

11. (1) The term of office of a member of a municipal board shall be fixed from time to time by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of member.

12. A member of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Removal of member.

13. The Local Government may, from time to time, remove any member of a municipal board who refuses to act or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the board.

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14. (1) When the place of an elected member of a municipal board becomes vacant by his resignation, removal, or death, a new member shall be elected in manner prescribed to fill the place :

Filling of casual vacancies.

Provided that the Local Government may, subject to the limitation of the proportion of appointed members of the board fixed by section 6, clause (*b*), direct in any such case that the vacancy shall be left unfilled.

(2) When the place of an appointed member of a municipal board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 64, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

15. Every municipal board shall be a body corporate by the name of the municipal board of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to the rules made under section 64, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of municipal board.

16. A municipal board shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Time for boards coming into existence.

17. (1) When a municipal board comes into existence under section 16 for a municipality constituted under this Act, and that municipality comprises within its limits a local area which is a municipality under the North-Western Provinces and Oudh Municipalities Act, 1873, the following consequences shall ensue, namely :—

Consequences of establishment of municipal board where municipal committee exists or Act XX. of 1856 is in force.

(*a*) the said North-Western Provinces and Oudh Municipalities Act shall cease to apply to the local area ;

(*b*) the municipal committee (if any) constituted under that Act for the local area shall cease to exist ;

(*c*) all property vested in that committee shall vest in the municipal board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities, and obligations (if any) affecting, that property ;

(*d*) every right and liability belonging to or incurred by the committee may be enforced by and against the board in like manner as it might have been enforced by and against the committee if this Act had not been passed ;

(*e*) a Government officer employed by the committee at the time when the board comes into existence shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government ; and

(*f*) The Board shall be substituted for the committee in all legal proceedings by or against the committee pending at the time when the board comes into existence.

(2) When a municipal board comes into existence under section 16 for a municipality constituted under this Act, and that municipality comprises within its limits a local area in which Act XX. of 1856 (*An Act to make better provision for the appointment and maintenance of Police Chaukidárs*

in Cities, Towns, Stations, Suburbs, and Bázárs in the Presidency of Fort William in Bengal), is in force, that Act shall cease to have effect in the local area, and every pancháyat constituted under that Act for the local area shall cease to exist.

Chairman and Vice-Chairman.

Election or appointment of chairman.

18. A municipal board shall, from time to time, at a special meeting, elect as its chairman one of its own members or some other person qualified for election as a member, and the member or other person so elected shall, if the election is approved by the Local Government, but not otherwise, become chairman of the board :

Provided that—

(*a*) if the office of chairman remains vacant for three months from the date of the first meeting of the board, or in the case of a vacancy afterwards occurring, from the occurrence of that vacancy, and no person is within that period elected under this section to fill it, the Local Government may, in its discretion, appoint such person as it thinks fit by name or by virtue of his office to be chairman ; and

(*b*) in such municipalities as the local Government may, from time to time, by notification in the official Gazette, exempt from the operation of this section, the Local Government may, from time to time, appoint such person as it thinks fit by name or by virtue of his office to be chairman.

Election of vice-chairman.

19. In every municipality the board shall, from time to time, at a special meeting, elect one or two of its members to be its vice-chairman or vice-chairmen.

Term of office of chairman and vice-chairman.

20. (1) The term of office of a member of the board elected to be chairman shall be the residue of his term of office as member.

(2) The term of office of any other person elected to be chairman, or of a chairman appointed by the Local Government, shall be such term not exceeding three years as the Local Government may, from time to time, by rule prescribe.

(3) The term of office of a vice-chairman shall be one year : Provided that when at the time of his election as vice-chairman the residue of his term of office as member of the board is less than one year, his term of office as vice-chairman shall be the residue of his term as member.

(4) An out-going chairman or vice-chairman shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of chairman or vice-chairman.

21. (1) A chairman of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

(2) A vice-chairman of a municipal board may resign by notifying in writing his intention to do so to the board, and, on his resignation being accepted by the board, he shall be deemed to have vacated his office.

Removal of chairman or vice-chairman.

22. The Local Government may remove any chairman or vice-chairman of a municipal board from his office as such chairman or vice-chairman if he refuses to act or becomes incapable of acting or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits

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him to be chairman or vice-chairman, or if he, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the board.

Casual vacancies in office of chairman or vice-chairman.

23. (1) If an elected chairman or vice-chairman dies or resigns his office, or is removed, a new chairman or vice chairman shall be elected or appointed in manner provided by section 18 or section 19, as the case may be.

(2) If a chairman appointed by the Local Government dies, resigns his office, or is removed, the Local Government shall appoint another chairman.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office: Provided that if a person so elected is a member of the board at the time of his election, he shall go out of office on ceasing to be a member.

(4) A person going out of office under sub-section (3) shall, if otherwise qualified, be again eligible for election or appointment.

Chairman to become member if not already member.

24. When a person not already a member of the board is elected or appointed chairman, he shall, notwithstanding anything in the foregoing sections, become a member of the board by virtue of his election or appointment, and shall continue to be a member so long as he holds office as chairman.

Notification of Elections, Appointments, and Vacancies.

Notification of elections, appointments, and vacancies.

25. Every election and appointment of a member or chairman of a municipal board, and every vacancy in the office of member or chairman, shall be notified in the official Gazette.

Joint Committees.

Joint committees.

26. (1) A municipal board may, from time to time, concur with any other municipal board, or with a district board, or with a cantonment authority, or with more than one such board or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the committee, and in delegating to any such committee any power which might be exercised by either or any of the boards or authorities, and in framing and modifying regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division, if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

Time for holding meetings.

27. (1) A municipal board shall meet for the transaction of business at least once in every month on such day as may, from time to time, be fixed by the rules made under section 34.

(2) The chairman, or, in his absence, a vice-chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fifth of the members of the board, convene either an ordinary or a special meeting at any other time.

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Ordinary and special meetings.

28. (1) A meeting of a municipal board shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

29. (1) The quorum necessary for the transaction of business at a special meeting of a municipal board shall be one-half of the whole board.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under section 34:

Provided that, if at any ordinary or special meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

Chairman of meeting.

30. (1) At every meeting of a municipal board the chairman, if present, shall preside.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, and a vice-chairman is present, such vice-chairman, or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Vote of majority decisive.

31. (1) Except as otherwise provided by this Act, or by any rule made by the Local Government under this Act, all questions which may come before any meeting of a municipal board shall be decided by a majority of the votes of the members present.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Certain officers entitled to attend and speak.

32. The Civil Surgeon of the district, the Executive Engineer of the division, and the Inspector of Schools of the circle, shall be entitled to attend any meeting of the board, and to address the board on any matter affecting respectively sanitation, public works, and public instruction.

Resolutions to be recorded and published.

33. (1) Every resolution passed by a municipal board at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or the next ensuing meeting, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may, from time to time, direct.

(2) A copy of every resolution passed by a municipal board at a meeting shall, within ten days from the date of the meeting, be forwarded to the Magistrate of the district.

Power to make rules as to meetings and proceedings.

34. (1) Every municipal board may, from time to time, at a special meeting, make rules consistent with this Act and any rules made under this Act by the Local Government as to—

(*a*) the time and place of its meetings;

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(b) the manner of convening ordinary and special meetings respectively, and of giving notice thereof:

(c) the quorum necessary for the transaction of business at ordinary meetings;

(d) the conduct of proceedings at meetings, and the adjournment of meetings;

(e) the division of duties among the members of the board;

(f) the persons by whom receipts may be granted on behalf of the board for money paid under this Act; and

(g) all other similar matters.

(2) Every rule made under this section shall be published in such manner as the Local Government may, from time to time, direct.

Officers and Servants.

Appointment of secretary.

35. (1) Every municipal board shall, from time to time, at a special meeting, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person or persons, to be its secretary or secretaries; and may, at a like meeting, remove any person so appointed.

(2) If a person who is an officer in the service of the Government, and who is not a member of the board, is appointed secretary, he shall, notwithstanding anything in the foregoing sections, become a member of the board by virtue of such appointment, and shall continue to be a member of the board as long as he holds the office of secretary.

(3) When a member of the board is appointed to be secretary, he shall receive no remuneration in respect of his services. In other cases, the board may, with the previous sanction of the Commissioner, assign to a secretary any such pay as it thinks fit.

Employment of other officers and servants.

36. Subject to the other provisions of this Act, and to such rules as the Local Government may, from time to time, make, prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a municipal board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it thinks fit.

Pensions of Government officials serving boards.

37. In the case of a Government official employed by a municipal board, the board may—

(1) if his services are wholly lent to it, contribute to his pension, gratuities, and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities, and leave-allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

38. In the case of a servant not being a Government official referred to in section 37, a board may—

(1) grant him leave-allowances and, if his monthly pay is less than ten rupees, gratuities; and

(2) if empowered in this behalf by the Local Government—

(a) subscribe in his behalf for pension, gratuities, and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(b) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance, or annuity, shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, he would be entitled if the service had been service under the Government.

Contracts.

Authority to contract.

39. (1) A municipal board may delegate to one or more of its members the power of entering into, on its behalf, any contract whereof the value or amount does not exceed two hundred rupees.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be executed until it has been sanctioned by the board at a meeting.

Mode of executing contracts.

40. (1) Every contract made by or on behalf of a municipal board whereof the value or amount exceeds twenty rupees shall be in writing.

(2) Every such contract shall be signed by the chairman, or a vice-chairman, and a secretary:

Provided that the board may delegate to one or more of its members the power of executing any contracts which he or they are empowered to enter into under section 39, sub-section (1).

(3) If a contract to which this section applies is executed otherwise than in conformity therewith, it shall not be binding on the board.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

Taxes which may be imposed.

41. Subject to any general rules or special orders which the Governor-General in Council may, from time to time, make in this behalf, a municipal board may, for the purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner prescribed by section 42, any of the following taxes, namely:—

(1) with the previous sanction of the Local Government—

(a) a tax on houses, buildings, and lands situate within the municipality, not exceeding seven and a half per centum of the annual value of the houses, buildings, and lands;

(b) a tax on persons exercising professions or carrying on trades or dealings in the municipality;

(c) a tax on vehicles and on animals used for riding or driving or as beasts of burthen, when such vehicles or animals are kept within the municipality;

(d) a tax on vehicles and on animals as aforesaid entering the municipality, and on boats moored therein;

(e) an octroi on goods or animals brought within the municipality for consumption or use therein; and

(2) with the previous sanction of the Local Government and of the Governor-General in Council, any other tax.

Procedure in imposing taxes.

42. (1) A municipal board may resolve at a special meeting to propose the imposition of any tax for the purposes of this Act.

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(2) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any inhabitant of the municipality objecting to the proposed tax may, within a fortnight from the publication of the notice, submit his objection in writing to the board, and the board shall, at a special meeting, take his objection into consideration.

(4) If no objection is submitted within the said period of a fortnight under sub-section (3), or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the board may forward its proposals to the Local Government, with the objections (if any) which have been submitted as aforesaid.

(5) The Local Government, on receiving proposals under sub-section (4), may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When the Local Government sanctions any proposals which, under section 41, sub-section (2), require the further sanction of the Governor-General in Council, it shall submit those proposals to the Governor-General in Council, with the objections (if any) received through the board; and the Governor-General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(7) When the proposals of a municipal board have been sanctioned by the Local Government, or by the Local Government and the Governor-General in Council, as the case may be, the board may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

Tax not invalid for defect of form.

43. A tax imposed under this Act shall not be invalid for defect of form, and when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier.

Power to abolish or reduce tax.

44. A municipal board, by a resolution passed at a special meeting, and confirmed by the Local Government, or the Local Government with the previous sanction of the Governor-General in Council, may abolish or reduce any tax imposed under the foregoing sections.

Taxes leviable under Act XV of 1873 to be deemed to be taxes under this Act.

45. All taxes leviable in any local area under the North-Western Provinces and Oudh Municipalities Act, 1873, at the time when a municipal board having authority over that local area comes into existence under this Act, shall be deemed to have been imposed and assessed under this Act.

Recovery of taxes.

46. Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

Municipal Fund.

Constitution and application of municipal fund.

47. (1) There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(*a*) all sums received by or on behalf of the board;

(b) all fines realized in cases in which prosecutions are instituted under this Act or section 34 of Act V. of 1861 for offences committed within the

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lities Act, 1873, the balance (if any) standing at the credit of the municipal fund of that municipality at the time when the municipal board came into existence ; and

(d) when there has been included within the municipality any local area in which the said Act XX. of 1856 was in force at the time when the municipal board came into existence, the amount (if any) then available under section 36 of that Act for the purposes of cleansing, lighting, and improvement in that local area.

(2) The municipal fund shall, subject to the provisions of this Act, be applicable, at the discretion of the municipal board, to all the purposes of this Act within the limits of the municipality, and, with the previous sanction of the Local Government, to like purposes beyond those limits, when such application of the fund is for the benefit of the inhabitants of the municipality.

Custody and investment of municipal fund.

48. (1) In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury, or bank.

(2) In places where there is no such treasury or sub-treasury or bank, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

(3) A municipal board may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor-General in Council may, from time to time, approve in this behalf, and vary such investments for others of the like nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund.

CHAPTER IV.

POWERS AND DUTIES OF MUNICIPAL BOARDS GENERALLY.

Municipal Police.

Police-establishment.

49. Every municipal board shall maintain a police-establishment for watch and ward, for the prevention and suppression of nuisances, and for the enforcement of the rules and orders of the board.

Constitution of establishment.

50. Subject to the provisions of section 9 of the Cantonments Act, 1880, the establishment maintained under section 49 shall, as the board with the approval of the Local Government may, from time to time, direct, be either a body of watchmen or a part of the general police force under the Local Government within the meaning of section 2 of Act V. of 1861 ; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave-allowances, gratuities, and pensions, as the board may, from time to time,

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after consultation with the Magistrate of the district and the Inspector-General of Police, and subject to the final decision of the Local Government, direct.

Appointment, punishment, and duties of municipal watchmen.

51. If the establishment maintained under section 49 is a body of watchmen, the watchmen shall be appointed and promoted, and shall be liable to dismissal, suspension, reduction, or fine, under such rules as the Local Government may, from time to time, make in this behalf; and shall perform such duties, and be liable to such penalties, as village-policemen appointed under the North-Western Provinces Village and Road Police Act, 1873, or under the Oudh Laws Act, 1876, as the case may be, perform and are liable to.

Duties of municipal police enrolled under Act V. of 1861.

52. If the establishment is part of the general police force, the Local Government may, notwithstanding anything contained in Act V. of 1861 or in any other Act for the time being in force, define the duties which the officers and men of the establishment may or may not be required to perform.

Powers under section 34 of Act V. of 1861.

53. In any municipality in which section 34 of Act V. of 1861 is in force, every watchman under this Act shall have the powers of a police-officer under that section.

Conservancy and General Improvement.

Duties of municipal board generally.

54. Every municipal board, so far as the municipal fund at its disposal will permit, but subject to any agreement between the board and the Local Government as to the application of that fund, shall, after providing for the maintenance of the police-establishment referred to in the foregoing sections,—

(1) provide for the construction, maintenance, repair, and cleansing of the public streets, roads, drains, tanks, and watercourses;

(2) cause those streets and roads to be watered and lighted;

(3) provide for the establishment, maintenance, and management of schools and dispensaries and of other public institutions for the promotion of education or for the benefit of the public health, and control and administer all such institutions within the municipality, except where they may, by order of the Local Government, have been excepted from the operation of this section;

(4) provide for the establishment, maintenance, and management of poor-houses, markets, and other works of public utility; and

(5) generally do all acts and things calculated to promote the health, comfort, convenience, or interests of the inhabitants of the municipality.

Power to make and enforce Rules.

Power to make rules.

55. (1) A municipal board may, from time to time, at a special meeting, make rules—

(*a*) for prohibiting, preventing, and punishing such acts or omissions within the municipality as may, in the opinion of the board, cause or tend to cause any common injury, danger, or annoyance to the public, or to people in general, who dwell or occupy property in the vicinity, or injury, obstruction, danger, or annoyance to persons who have occasion to use any public right, or may, in its opinion, be prejudicial to the public health, safety, or convenience, or offences against public decency;

(*b*) for protecting from injury or interference anything within the municipality being the property of Her Majesty or of the board;

(*c*) for prohibiting or controlling the establishment or maintenance of markets, saráis, and halting places, and controlling the management of the same and of any places of public entertainment and resort;

(*d*) for controlling and regulating the use and management of burial and burning grounds;

(*e*) for limiting the rates which may be demanded for the hire of any carriage, cart, boat, or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads, where those conveyances, animals, or persons are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(*f*) for securing a proper registration of births, marriages, and deaths;

(*g*) for defining the cases, manner, and times in and at which officers of the board may enter on private property for the enforcement of rules made under this section;

(*h*) in hilly tracts, for regulating or prohibiting the cutting of trees or shrubs, or the excavation or removal of soil, where such regulation or prohibition appears necessary for the preservation of the soil, the prevention of land-slips or of the formation of ravines or torrents, the protection of land against erosion, or the deposit thereon of sand, stones, or gravel; and

(*i*) generally for carrying out the purposes of this Act.

(2) In making any rule under this section, a municipal board may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues.

(3) A rule made under this section shall not come into force until it has been confirmed by the Local Government, and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

(4) Notwithstanding anything contained in the foregoing portion of this section, the municipal board of a municipality in which the Hackney-carriage Act, 1879, is in force, shall not make rules under sub-section (1) in respect of any vehicles to which that Act applies.

Power to prohibit commission of public nuisances.

56. Subject to any orders which the Local Government may, from time to time, make in this behalf, a municipal board may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance.

Powers as to conditional orders in respect of certain acts and omissions.

57. (1) The Local Government may invest, within the limits of the municipality, a municipal board with the powers of a Magistrate of a district as described in section 133 of the Code of Criminal Procedure, and with power to make conditional orders of the nature referred to in that section, in respect of all or any acts or omissions punishable under rules made in exercise of the power conferred by section 55, clauses (*a*), (*b*), (*c*), (*d*), and (*h*).

(2) Sections 133 to 142 (both inclusive) of the Code of Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers:

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if, for the words "before himself or some other Magis-

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trate of the first or second class," the words "before the District Magistrate or some Magistrate of the first or second class appointed by him in this behalf," were substituted.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has invested a board under this section.

Delegation of powers under sections 56 and 57.

58. A municipal board may, at a special meeting, delegate to one or more committees of its members any of the powers vested in the board by section 56, or with which the board may have been invested under section 57.

CHAPTER V.

CONTROL.

Control by Commissioner or Magistrate.

59. The Commissioner of the division or the Magistrate of the district, when he is not a member of the municipal board, may—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any municipal board or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(*b*) call for and inspect any book or document in the possession or under the control of any such board or committee having authority within those limits;

(*c*) require any such board or committee to furnish such statements, accounts, reports, and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(*d*) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

Power to suspend action under Act.

60. (1) The Commissioner of the division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of a municipal board or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order, or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently, or for such period as it thinks fit.

Extraordinary powers of Magistrate in case of emergency.

61. (1) In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a municipal board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is, from time to time, possible, from that balance, in priority to any or all other charges against the same.

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers conferred on him by this section.

Powers of Local Government in case of default of board.

62. (1) If at any time it appears to the Local Government that a municipal board has made default in performing any duty imposed on it by or under this or any other Act, the Local Government may, by order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Magistrate of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate by the board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from the balance, in priority to any or all other charges against the same.

Power of Local Government to supersede board in case of incompetency, persistent default, or abuse of powers.

63. (1) If a municipal board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare that board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When a board is so superseded, the following consequences shall ensue :—

(*a*) All members of the board shall, as from the date of the order, vacate their offices as such members.

(*b*) All powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf.

(*c*) All property vested in the board shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of supersession specified in the order, the board shall be reconstituted, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for being members.

Power of Local Government to frame forms and make rules.

64. (1) The Local Government may, from time to time, frame forms for any proceeding of a municipal board for which it considers that a form should be provided, and make rules consistent with this Act—

(*a*) as to the appointment of members of a municipal board ;

(*b*) as to the language of the board ;

(*c*) for the assessment and collection of taxes imposed under this Act, and for preventing evasion of the same ;

(*d*) as to the authority on which money may be paid from the municipal fund ;

(e) as to the conditions on which property vested in the board may be transferred by sale, mortgage, lease, exchange, or otherwise;

(f) as to the qualifications requisite in the case of persons appointed by the board to offices requiring professional skill;

(g) as to the intermediate office or offices, if any, through which correspondence between boards and the Local Government or officers of that Government and representations addressed to the Local Government under this Act shall pass;

(h) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(i) as to the accounts to be kept by boards, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(j) as to the preparation of estimates of income and expenditure of boards, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned;

(k) as to the returns, statements, and reports to be submitted by boards; and

(l) generally, for the guidance of boards and public officers in all matters connected with the carrying out of this Act.

(2) In making rules under clause (c), the Local Government may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

CHAPTER VI.

SUPPLEMENTAL.

Penalty on member, officer, or servant of board being interested in contract made with board.

65. (1) If any member, officer, or servant of a board is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with the board, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

(2) A person shall not, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and the board, but he shall not take part in any proceedings of the board relating to any such contract.

Liability of members for loss, waste, or misapplication.

66. Every person shall be liable for the loss, waste, or misapplication of any money or other property belonging to the board, if such loss, waste, or misapplication, is a direct consequence of his neglect or misconduct while a member of the board, and a suit for compensation may be instituted against him by the board with the previous sanction of the Commissioner, or by the Secretary of State for India in Council.

Acquisition of land under Act X. of 1870

67. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the municipal board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board.

Procedure for making rules.

68. (1) The authority empowered to make rules under section 10, section 55, or section 64, shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

Prosecutions.

69. A Court shall not take cognizance of an offence punishable under this Act, or the rules made under this Act, except on the complaint of the municipal board or of some person authorized by the board in this behalf.

Saving of prosecutions under other laws.

70. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any higher punishment or penalty than that provided by this Act or the rules made under it: Provided that a person shall not be punished twice for the same offence.

Continuance of existing rules.

71. (1) All rules made under the North-Western Provinces and Oudh Municipalities Act, 1873, or any Act thereby repealed, and in force in any local area comprised in a municipality constituted under this Act at the time the municipal board for that municipality comes into existence under section 16, shall, as far as may be, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made.

(2) The authority empowered to make such new rules shall, as soon as may be, make them, and take such action as may be requisite for bringing them into force.

Notification of intention to alter limits of municipality.

72. The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may, from time to time, determine, declare its intention—

(*a*) to exclude from a municipality any local area comprised therein and defined in the notification, or

(*b*) to include within a municipality any local area in the vicinity of the same and defined in the notification:

Provided that where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor-General in Council.

Alteration of limits of municipality.

73. (1) Any inhabitant of a municipality or local area in respect of which a notification has been published in the Gazette under section 72 may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

1883.

Act 15.

(2) When six weeks from the publication of the notification in the Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, exclude the local area from the municipality, or include it therein, as the case may be.

Effect of exclusion of local area from municipality.

74. (1) When a local area is excluded from a municipality under section 73—

(*a*) this Act, and all rules, orders, directions, and powers made, issued, or conferred under this Act, shall cease to apply thereto; and

(*b*) the Local Government shall, after consulting the municipal board, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the municipal board shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the board shall be apportioned between the board and the Secretary of State for India in Council, and on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section (1) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the health, comfort, convenience, or interest of the inhabitants of the local area.

Effect of including local area in municipality.

75. When a local area is included in a municipality under section 73, this Act, and all rules, orders, directions, and powers made, issued, or conferred under this Act, and in force throughout the whole municipality at the time the local area is so included, shall apply to the local area.

Saving of Act XI. of 1879.

76. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Member of municipal board to be municipal commissioner.

77. Every member of a municipal board constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

CHAPTER VII.

EXCEPTIONAL PROVISIONS.

Power to except municipalities from operation of provisions of Act regarding election.

78. (1) If it appears to the Local Government that the circumstances of any municipality are such that the provisions of this Act requiring that a certain proportion of the members of a municipal board be elected are unsuited thereto, the Local Government may, by notification in the official Gazette, exempt the municipality, wholly or in part, from the operation of those provisions; and thereupon those provisions shall not apply, or shall only apply in part, as the case may be, to the excepted municipality until again applied thereto by a like notification of the Local Government:

Provided that no notification shall be issued under this section in respect of a municipality for which a municipal board has come into existence unless its issue has been sanctioned by the Governor-General in Council.

(2) While the municipality continues to be excepted, wholly or in part, from the operation of the provisions mentioned in sub-section (1), the Local Government may appoint such of the members of the municipal board as would otherwise have been elected.

Power to withdraw municipal area altogether from operation of this Act or Act XV. of 1873.

79. (1) The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, withdraw from the operation of this Act or the North-Western Provinces and Oudh Municipalities Act, 1873, the area of any municipality constituted under that Act.

(2) When a notification is issued under this section in respect of any municipality, the Act, and all rules, bye-laws, orders, directions, and powers made, issued, or conferred under the Act, shall cease to apply to the local area comprised in the municipality, the balance of the municipal fund and all other property which at the time of the issue of the notification is vested in the municipal board or municipal committee shall vest in Her Majesty, and the liabilities of the board or committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the health, comfort, convenience, or interest of the inhabitants of the local area comprised in the municipality.

ACT NO. XVI. OF 1883.

PROTECTION OF INVENTIONS.

RECEIVED THE G.-G.'S ASSENT ON THE 4TH OCTOBER 1883.

An Act for the protection of Inventions exhibited in the Exhibitions of India.

WHEREAS it is expedient that such protection as is hereinafter mentioned should be afforded to the inventors of new manufactures who are desirous of exhibiting them at Exhibitions to be held in India; It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Protection of Inventions Act, 1883;

Commencement.

(2) And it shall come into force at once.

Act to be read with Act XV. of 1859.

2. It shall be read with, and taken as part of, Act XV. of 1859 (*for granting exclusive privileges to inventors*).

Inventions exhibited when to be deemed new, though publicly used or made publicly known.

3. If, within six months from the time of the opening of an Exhibition, a person, being the inventor and exhibitor of any manufacture exhibited at that Exhibition, petitions the Governor-General in Council, under Act XV. of 1859, for leave to file a specification of his invention, the circumstance that the invention has at any time after the opening of the exhibition been publicly used or made publicly known shall not prevent the invention being deemed to have been at the time of presenting the petition a new invention for the purposes of the said Act.

1883.

Act 17.

Meaning of term "Exhibition."

4. In this Act "Exhibition" means the International Exhibition to be held in the years one thousand eight hundred and eighty-three and one thousand eight hundred and eighty-four at Calcutta, and any Exhibition to be held in India which the Governor-General in Council may, on the application of any persons desirous of holding the Exhibition, by notification in the *Gazette of India*, declare to be, in the judgment of the Governor-General in Council, calculated to promote Indian art or industry, and to prove beneficial to the mercantile, agricultural, or industrial classes of Her Majesty's subjects in India.

ACT NO. XVII. OF 1883.

NATIVE PASSENGER SHIPS.

RECEIVED THE G.-G.'S ASSENT ON THE 4TH OCTOBER 1883.

An Act to amend the Native Passenger Ships Act, 1876.

WHEREAS it is expedient to amend the Native Passenger Ships Act, 1876, with a view to provide for the better regulation of the passenger-traffic between British India and ports in the Red Sea; It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Native Passenger Ships Act, 1883; and

Commencement.

(2) It shall come into force on such day as the Governor-General in Council directs by notification in the *Gazette of India*.

Addition to section 11 of the Native Passenger Ships Act, 1876.

2. After clause (*e*) of section eleven of the Native Passenger Ships Act, 1876, the following clause shall be added:—

"(*ee*) in the case of any ship sailing to any port in the Red Sea, that she is propelled principally by steam, and, if she is carrying more than one hundred passengers being natives of Asia or Africa, that she has on board a medical officer licensed in accordance with rules made under this Act."

Substitution of new section for section 26 of same Act.

3. For section twenty-six of the same Act the following section shall be substituted:—

Bond where ship clears for port in Red Sea.

"26. In the case of every ship sailing from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port clearance for any such ship shall not grant the clearance unless and until the owner, agent, or master of the ship, and two sureties resident in British India, have executed, in favour of the Secretary of State for India in Council, a joint and several bond, for the sum of Rs. 5,000, conditioned—

"(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers; and

"(*b*) that the master and medical officer (if any) of the ship shall comply with on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships sailing between ports in British India and ports in the Red Sea as the Governor-General in Council may, from time to time, make under section forty-six."

1883. Act 17.

Amendment of section 27 of same Act.

4. In section twenty-seven of the same Act, for the word "thirty" the word "sixty" shall be substituted.

Addition to section 28 of same Act.

5. To section twenty-eight of the same Act the following words shall be added:—"and the authority empowered to grant the same may refuse to grant a bill of health in the case of any ship on board of which the requirements of the rules made under section forty-six are not complied with."

Addition of new sections after section 28 of same Act.

6. After section twenty-eight of the same Act the following sections shall be added:—

Certain ships to carry medical officer.

"28A. Every ship sailing from or to any port in British India to or from any port in the Red Sea, and carrying more than one hundred passengers being natives of Asia or Africa, shall have on board a medical officer licensed in accordance with rules made under this Act.

Certain ships to be propelled by steam.

"28B. Every ship sailing from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Power for Local Government to direct medical inspection of passengers.

"28C.* (1) The Local Government may, from time to time, direct that no passenger shall be received on board any ship or any ship of a specified class sailing from any port in British India to any port in the Red Sea unless and until he has been inspected, at such time and place as the Local Government may fix in this behalf, by a medical officer to be appointed by the Local Government in this behalf.

"(2) If, in the opinion of the officer making an inspection under this section, a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark."

Addition of new sections after section 38 of same Act.

7. After section thirty-eight of the same Act, the following sections shall be added:—

Penalty on master or medical officer of certain ships disobeying rules.

"38A. If the master of any such ship as is referred to in section twenty-seven, or any medical officer in charge of any such ship, wilfully breaks, or omits or neglects to obey, any rule with regard to those ships made under section forty-six, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

"38B. If any ship sailing from or to any port in British India to or from any port in the Red Sea, and carrying more than one hundred passengers, has not on board a medical officer as required by section 28A, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on owner and master of certain ships not propelled by steam.

"38C. If any ship sailing from or to any port in British India to or from any port in the Red Sea is not principally propelled by steam, the owner and master shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on master receiving passenger in contravention of section 28C.

"38D. If the master of any ship, while a direction under section 28C is in force, knowingly receives on board his ship any person in contravention of that section or of the direction, he shall be punished with imprison-

ment which may extend to three months, or with fine which may extend to five hundred rupees for each person so received, or with both."

Additions to section 46 of same Act.

8. After clause (*b*) of section forty-six of the same Act the following clause shall be added :—

"(*bb*) the licensing and appointment of medical officers in cases where they are required, under this Act, to be carried ;"

and after clause (*e*) of the same section the following clauses shall be added :—

"(*ee*) the functions of the master, medical officer (if any), and other officers of the ship during the voyage ;

"(*eee*) the access of intermediate or between-decks passengers to the upper deck."

New section added to same Act.

9. To the same Act the following section shall be added, namely :—

Power to exempt ship from provisions of Act

"50. The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, for any special reason, and subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act."

ACT NO. XVIII. OF 1883.

CATTLE-TRESPASS.

RECEIVED THE G.-G.'S ASSENT ON THE 11TH OCTOBER 1883.

An Act to amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient to amend the Cattle-trespass Act, 1871 ; It is hereby enacted as follows :—

Power for Local Government to transfer functions of District Magistrate or Local Government to local authority, and direct that surplus receipts be credited to local fund.

1. The Local Government may, from time to time, by order notified in the local official Gazette—

(*a*) transfer to any local authority, within any part of the territories under its administration in which the Cattle-trespass Act, 1871, is in operation, all or any of the functions of the Local Government or the Magistrate of the district under that Act, within the local area subject to the jurisdiction of the local authority ; or

(*b*) direct that the whole or any part of the surplus accruing in any district under section eighteen of that Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district ;

and may, from time to time, in like manner, cancel any order made under this section.

Definitions.

2. In this Act—

"local authority" means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area ; and

"local fund" means any fund under the control or management of a local authority.

ACT NO. XIX. OF 1883.

LAND IMPROVEMENT LOANS.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH OCTOBER 1883.

An Act to consolidate and amend the law relating to loans of money by the Government for agricultural improvements.

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for agricultural improvements; It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Land Improvement Loans Act, 1883.

Local extent. Commencement.

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf.

Acts XXVI. of 1871 and XXI. of 1876 repealed.

2.* (1) The Land Improvement Act, 1871, and Act XXI. of 1876 (*An Act to amend the Land Improvement Act,* 1871), shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed.

(2) When in any Act, Regulation, or Notification, passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

"Collector" defined.

3. In this Act, "Collector" means the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector under this Act.

Purposes for which loans may be granted under this Act.

4. (1) Subject to such rules as may be made under section ten, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Government, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:—

(*a*) the construction of wells, tanks, and other works for the storage, supply, or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure, or permanent improvement of land for agricultural purposes;

(*e*) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto, and

(*f*) such other works as the Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

1883.

Act 19.

Mode of dealing with applications for loans.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein, and submit their objections.

(2) The officer shall consider every objection submitted under sub-section (1), and make an order in writing either admitting or overruling it:

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

Period for repayment of loans.

6. (1) Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise), within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the date of the actual advance of the last instalment, as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government and Governor-General in Council, in making and sanctioning the rules fixing the period, shall, in considering whether the period should extend to thirty-five years, or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

Recovery of loans.

7. (1) Subject to such rules as may be made under section ten, all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely :—

(*a*) from the borrower—as if they were arrears of land-revenue due by him ;

(*b*) from his surety (if any)—as if they were arrears of land-revenue due by him ;

(*c*) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land ;

(*d*) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immoveable property other than the land on which that revenue is due :

Provided that no proceeding in respect of any land under clause (*c*) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section four with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest, or costs, is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub-section (1) by the Collector from a surety or out of any such property, the Collector shall, on the

application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section (1).

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

Order granting loan conclusive on certain points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

(a) that the work described is an improvement within the meaning of this Act;

(b) that the person mentioned had, at the date of the order, a right to make such an immprovement; and

(c) that the improvement is one benefiting the land specified.

Liability of joint borrowers as among themselves.

9. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan, and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Power to make rules.

10. The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely:—

(a) the manner of making applications for loans;

(b) the officers by whom loans may be granted;

(c) the manner of conducting inquiries relative to applications for loans, and the powers to be exercised by officers conducting those inquiries;

(d) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans;

(e) the inspection of works for which loans have been granted;

(f) the instalments by which, and the mode in which, loans, the interest to be charged on them, and the costs incurred in the making thereof, shall be paid;

(g) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and

(h) all other matters pertaining to the working of the Act.

Exemption of improvements from assessment to land-revenue.

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land revenue on the land:

Provided as follows:—

(1) Where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates, the increase may be

so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government with the approval of the Governor-General in Council.

(2) Nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

Act III. of 1877 amended.

12. (1) In the Indian Registration Act, 1877, section 17, clause (*l*), for the word "certificates" the words "orders granting loans" shall be substituted.

(2) In the same Act, section 58, for the words "a certificate" the words "an order" shall be substituted.

(3) In the same Act, section 89, first clause,—

(*a*) for the words "a certificate" the words "a loan," and

(*b*) for the words "such certificate" the words "his order,"

shall be substituted.

ACT NO. XX. OF 1883.

PANJAB DISTRICT BOARDS.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH OCTOBER 1883.

An Act to make better provision for local self-government in the Districts of the Panjáb.

WHEREAS it is expedient to amend the law in force in the territories administered by the Lieutenant-Governor of the Panjáb for the levy and expenditure of rates on land; and

Whereas it is also expedient to provide for the constitution of district boards and local boards in those territories, and to define and regulate the powers to be exercised by those boards;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be called the Panjáb District Boards Act, 1883.

Extent.

(2) It shall extend only to the territories for the time being administered by the Lieutenant-Governor of the Panjáb; and

Commencement.

(3) It shall come into force in each district on such date as the Local Government, by notification, directs.

Repeal of Act V. of 1878.

2. From the date on which this Act comes into force in any district, the Panjáb Local Rates Act, 1878, shall be repealed throughout that district. But all rates imposed, sums credited to the Local Government, and notifications published under that Act, shall, so far as may be, be deemed to have been respectively imposed, credited, and published under this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Land" means land assessed to the land-revenue, and includes land whereof the land-revenue has been wholly or in part released, compounded for, redeemed, or assigned.

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(2) "Land-revenue" includes trini or grazing-dues levied for grazing on Government lands under section 48 of the Panjáb Laws Act, 1872.

(3) "Landholder" means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes the proprietor of land the land-revenue of which has been wholly or in part released, compounded for, redeemed, or assigned.

(4) "Annual value" means—

(*a*) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not; or

(*b*) where the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition, or redemption, would have been leviable; or

(*c*) where no land-revenue has been assessed, double the amount which would have been assessed if the average village-rate had been applied:

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(5) "Financial year" means the year commencing on the first day of April.

(6) "Prescribed day" means such day as the Local Government may, from time to time, prescribe.

(7) "Notification" means a notification published in the official Gazette.

(8) "Notified" means notified in the official Gazette.

(9) "Deputy Commissioner" means the Deputy Commissioner of a district, and includes any officer specially appointed by the Local Government to perform the functions of a Deputy Commissioner under this Act.

Powers exercisable from time to time.

4. All powers conferred by this Act may be exercised from time to time as occasion requires.

CHAPTER II.

OF THE LOCAL RATE ON LAND.

The local rate.

5. (1) All land shall be subject to the payment of a rate, to be called the local rate, not exceeding one anna for every rupee of its annual value.

(2) The proportion which the local rate shall bear to the annual value of land shall, except as provided in sub-section (3), be fixed for each district by the Local Government by notification.

(3) The Local Government may, by notification, delegate to the district board, subject to such restrictions or conditions as it thinks fit, its powers under sub-section (2), and may, by notification, cancel or vary any such notification.

Road, school, and post cesses to merge in the rate.

6. From such date as may be notified in respect of each district by the Local Government, all authorized rates and cesses for the maintenance of roads, schools, and the district-post, shall merge in and become part of the local rate, and no rate or cess other than the local rate shall be thereafter leviable for those purposes.

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Liability for local rate.

7. The landholder shall be liable for the local rate subject to the following provisoes, namely :—

(1) where the landholder pays the land-revenue in kind to any assignee of revenue or any village-headman, the assignee of revenue or village-headman shall be liable for the payment of the local rate instead of the landholder, and no demand shall be made by any such assignee or village-headman on the landholder in respect of the payment of the rate ; and

(2) where the Government has, under any lease current at the time when this Act comes into force, paid the local rate on trini, it shall continue to pay the rate during the currency of the lease.

Power to recover a share of the rate from occupancy-tenant.

8. When a local rate is payable by a landholder in respect of lands held by a tenant with a right of occupancy-holding at a favourable rent, the landholder may realize from the tenant a share of the rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by the tenant bears to half the annual value.

Appropriation of proceeds of local rate.

9. Four-fifths of the net proceeds of the local rate levied in each district, after deducting the expenses of collection, shall, except as provided in section 68, be allotted to the district board established for that district under this Act.

The remaining one-fifth shall be carried to the credit of the Local Government, and may—

(a) be allotted by that Government to any district board established under this Act ; or

(b) be applied by that Government to provide in the territories to which this Act extends, or any part thereof, for any of the matters on which district boards may expend the funds at their disposal under this Act :

Provided that the Local Government may direct that the whole or any portion of the net proceeds of the local rate levied within the limits of any municipality or military cantonment, after deducting the expenses of collection, shall be carried to the credit of the municipal fund, or made available for the purpose of public improvement in the cantonment or carrying out therein any rules made under section 25 of the Cantonments Act, 1880, as the case may be.

CHAPTER III.

OF DISTRICT AND LOCAL BOARDS.

A.—Constitution of District and Local Boards.

Establishment of district and local boards.

10. (1) The Local Government shall, by notification, establish a district board for each district.

(2) The Local Government may, by notification, establish a local board or local boards within the limits of any district, and may cancel or vary any such notification.

(3) A district board shall have authority throughout the district for which it is established, and a local board shall have authority throughout such portion of the district in which it is established, as the Local Government may, by notification, direct :

Provided that a board shall not have authority over any portion of a district which is for the time being included in a military cantonment or a municipality.

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Number and appointment or election of members.

11. (1) A district board or local board shall consist of such number of members, not less than six, as the Local Government may fix in this behalf.

(2) The members may be appointed by the Local Government either by name or by official designation, or may be elected in accordance with rules made by the Local Government under this Act, or some may be appointed and some elected, as the Local Government directs:

Provided that—

(*a*) when the Local Government has directed that all or any proportion of the members shall be elected, it shall not thereafter direct that they shall be appointed, unless a majority of the electors declare that they so desire, or the Governor-General in Council, for some reason affecting the public interests, sanctions the direction:

(*b*) except with the approval of the Governor-General in Council, or unless salaried officers of the Government are elected, not less than two-thirds of the members of every board shall be persons other than salaried officers of the Government; and

(*c*) not less than one-half of the members of the board shall be landholders in the district.

(3) When, under a direction issued under sub-section (2), any places on a board are required to be filled by election, and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

Term of office of members.

12. (1) A member of a district board or local board, when appointed by virtue of an office, shall, unless and until the Local Government otherwise directs, continue to be a member of the board while he continues to hold that office.

(2) The term of office of all other elected and appointed members respectively of a district board or local board shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Registration of members.

13. A member of a local board or of a district board may resign by notifying in writing his intention to do so to the Local Government; and, on the acceptance by the Local Government of such resignation, the member shall be deemed to have vacated his office.

Powers of the Local Government as to removal of members.

14. The Local Government may remove any member of a district board or local board—

(*a*) if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member;

(*b*) if he has been declared by notification to be disqualified for employment in the public service;

(*c*) if he, being a member of a local board, without an excuse sufficient in the opinion of the Local Government, neglects for more than three consecutive months to be present at the meetings of that board, or, being a member of the district board, without such sufficient excuse, neglects for more than six consecutive months to be present at the meetings of that board;

(*d*) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order; or,

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(e) when he is a salaried officer of the Government, if his continuance in office is, in the opinion of the Local Government, unnecessary or undesirable.

Filling of casual vacancies.

15. (1) When the place of an elected member of a local board or district board becomes vacant by the resignation or removal of the member or by his death, a new member shall be chosen in accordance with the rules made by the Local Government under this Act to fill the place:

Provided that the Local Government may direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a member of a local board or district board appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person chosen or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

Incorporation of district boards.

16. Every district board shall be a body corporate by the name of the district board of its district, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to any rules made by the Local Government under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Time for district and local boards coming into existence.

17. The several district boards and local boards constituted under this Act shall come into existence at such time as the Local Government may, by notification, fix in this behalf.

Chairman.

18. (1) A member of every district board or local board shall be elected or appointed to be chairman of the board, and shall hold office for such term, not exceeding three years, as the Local Government may, by a rule made under this Act, fix.

(2) The Local Government shall determine, as regards each board or as regards any class of boards, whether the chairman shall be a person appointed by virtue of his office or by name, or be elected.

Vice-chairman.

19. (1) A district board or local board may elect one of its members to be vice-chairman.

(2) A vice-chairman so elected shall hold office for such term as the board may, by rule, fix.

B.—Duties of District and Local Boards.

Duties of district board.

20. (1) The following matters shall, subject to such exceptions and conditions as the Local Government may make and impose, be under the control and administration of each district board within the area subject to its authority:—

(a) the management of all property vested in the district board;

(b) the construction, repair, and maintenance of public roads and other means of communication;

(c) the establishment, management, maintenance, and visiting of public hospitals, dispensaries, saráís, and schools, and the construction and repair of all buildings connected with these institutions;

(d) the training of teachers and the establishment of scholarships;

(e) the supply, storage, and preservation from pollution, of water for drinking, cooking, and bathing purposes; and

(f) the planting and preservation of trees.

(2) The Local Government may direct that any of the following matters shall, subject to such exceptions and conditions as it may make and impose, be under the control and administration of a district board within the area subject to its authority:—

(g) the management of any property vested in Her Majesty;

(h) the establishment, maintenance, visiting, and management of markets, rest-houses, encamping-grounds, and other public institutions, and the construction and repair of all buildings connected with these institutions;

(i) the construction and repair of embankments, and the supply, storage, and control of water for agricultural purposes;

(j) the preservation and reclamation of soil, and the drainage and reclamation of swamps;

(k) the construction, repair, and maintenance of famine preventive works, and the establishment and maintenance of such relief-works, relief-houses, and other measures in time of famine or scarcity as may be entrusted to the charge of the board by the Local Government;

(l) the registration of births, marriages, and deaths;

(m) fairs and agricultural shows and industrial exhibitions;

(n) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district under that Act as may be transferred to the board by the Local Government;

(o) the management of such public ferries as may be entrusted to the charge of the board under section 7A of the Northern India Ferries Act, 1878, as amended by this Act;

(p) any other local works or measures likely to promote the health, comfort, convenience, and interests of the public or the agricultural or industrial prosperity of the country; and

(q) any other matters which the Local Government may declare to be fit and proper matters to be taken under the control and administration of the board.

(3) The Local Government may cancel or modify any direction given by it under sub section (2).

(4) A district board shall, so far as the funds at its disposal permit, make due provision for all matters placed under its control or administration by or under this section.

Duties of local board.

21. (1) The Local Government, or, subject to the control of the Local Government, a district board, may direct that, within the area subject to the authority of a local board, any matter placed under the control and administration of the district board by or under section 20 shall be transferred to the control and administration of the local board.

(2) A local board, as the agent of, and subject to the control of, the district board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under sub-section (1).

(3) It shall be the duty of the district board to enforce the responsibility imposed on a local board by sub-section (2).

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Limits on expenditure of local board.

22. Except as otherwise provided by this Act, a local board shall not incur expenses or undertake liabilities to any amount exceeding the limit imposed by the district board of its district.

Power for district board to provide for performance of duty in default of local board.

23. (1) If a local board makes default in the performance of any duty imposed on it by or under this Act, the district board may, by order in writing, fix a period for the performance of the duty.

(2) If the duty is not performed within that period, the district board may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

C.—Joint Committees.

Joint committees.

24. A district board may concur with any other district board, or with any municipal committee, or with any cantonment authority, or with more than one such board, committee, or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and for delegating to any such joint committee any power which might be exercised by either or any of the boards, committees, or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

D.—Conduct of Business.

Record and publication of proceedings.

25. (1) Minutes of the proceedings at each meeting of a district or local board shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the chairman of the meeting or of the next ensuing meeting, and shall be published in such manner as the Local Government may, from time to time, direct, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant of the district who pays any rate or tax under this Act.

(2) A copy of every resolution passed by a local board at a meeting shall, within three days from the date of the meeting, be forwarded to the district board and to the Deputy Commissioner.

(3) A copy of every resolution passed by a district board at a meeting shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner.

Power to make rules as to business and affairs.

26. Every district board, and every local board with the sanction of the district board, may make rules as to—

(*a*) the time and place of its meetings and the manner in which notice of meetings shall be given;

(*b*) the conduct of proceedings at meetings and the adjournment of meetings;

(*c*) the custody of the common seal and the purposes for which it shall be used;

(*d*) the division of duties amongst its members;

(*e*) the powers to be exercised by sub-committees or members to whom particular duties have been assigned;

(*f*) the persons by whom receipts shall be granted for money received under this Act;

(*g*) the duties, appointment, leave, suspension, and removal of the officers and servants of the board;

(*h*) the term for which the vice-chairman shall hold office; and

(*i*) other similar matters:

Provided that every rule made under this section must be consistent with this Act and with any rules made by the Local Government under this Act, and shall be published in such manner as the Local Government may direct.

E.—Officers and Servants.

Employment of officers and servants.

27. (1) Subject to the provisions of this Act and to any rules which may be made under this Act in this behalf, every district board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards acting under it:

Provided that if, at any time, in the opinion of the Deputy Commissioner,—

(*a*) the number of persons employed by a board under this section, or the remuneration assigned by the board to those persons, or to any of them, is excessive, or

(*b*) any such person is unfit for his employment, the board shall, on the requirement of the Deputy Commissioner, reduce the number, or remuneration, of those persons, or, as the case may be, dismiss the unfit person.

(2) The board may appeal against any requirement under this section to the Commissioner of the division, whose decision shall be final.

Pensions of Government officials serving boards.

28. In the case of a Government official, a district board may—

(1) if his services are wholly lent to it, contribute to his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

29. In the case of an officer or servant, not being a Government official referred to in section 28, a district board may—

(1) grant him leave-allowances and, if he is employed under the district committee when this Act comes into force and not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe in his behalf for pension or gratuity and leave-allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance, or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under the Government.

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F.—Taxation and Finance.

Powers of taxation conferred on district boards.

30. Subject to any general rules or special orders which the Governor-General in Council may make in this behalf, a district board may impose, in manner prescribed by section 31, such taxes as may be approved by the Local Government:

Provided that no such tax shall be imposed in respect of any property subject to the local rate.

Procedure in imposing taxes.

31. (1) A district board may resolve, at a meeting, convened and constituted in such manner as the Local Government may prescribe, to propose the imposition of any tax under section 30.

(2) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any person likely to be directly affected by the proposed tax, and objecting to the same, may, within thirty days from the publication of the notice, send his objection in writing to the board; and the board shall, at a meeting convened and constituted as aforesaid, take his objection into consideration.

(4) If no objection is sent within the said period of thirty days, or if the objections received, having been considered as aforesaid, are deemed insufficient, the board may submit its proposals to the Local Government, with the objections (if any) which have been sent in, and with its decision thereon.

(5) The Local Government, on receiving proposals under sub-section (4), may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When the proposals of a district board in respect of a tax have been sanctioned by the Local Government, the board may, at a meeting convened and constituted as aforesaid, direct the imposition of the tax in accordance with those proposals:

Provided that, in giving such direction, the board shall fix a date not less than one month from the date of the meeting on which the tax shall come into force.

(7) Every direction under sub-section (6) shall be notified, and the notification shall be conclusive evidence that the tax has been imposed in accordance with law.

Reduction and abolition of tax.

32. The Local Government may, by notification, and the district board may, with the sanction of the Local Government, by a resolution passed at a meeting convened and constituted as the Local Government may prescribe, abolish or reduce any tax imposed under sections 30 and 31.

Levy of fees.

33. With the previous sanction of the Local Government, or of such officer as the Local Government may authorize in this behalf, a district board or local board may fix and levy school-fees and fees for the use of, or benefits derived from, any of the works specified in section 20, clauses (*c*), (*e*), (*h*), (*i*), and (*j*), and fees at fairs, agricultural shows, and industrial exhibitions held under its authority.

Additional funds to be provided by the Government.

34. When the control and administration of any matter is by or under this Act transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government

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shall, from time to time, allot to the district board such funds, or place at the disposal of the board such sources of income, as may, in the opinion of the Local Government and of the board, be sufficient for maintaining the control and administration of the said matter in the state of efficiency existing at the date of transfer.

District fund.

35. There shall be formed for each district a fund, to be called the district fund, and there shall be placed to the credit thereof—

(*a*) the balance (if any) of the allotments made for the district under section 7 of the Panjáb Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district on the day on which the district board comes into existence;

(*b*) all proceeds of rates allotted to the district board under section 9;

(*c*) the proceeds of all taxes imposed in the district under sections 30 and 31;

(*d*) the amount of all fees levied by the district board or by local boards in the district under section 33;

(*e*) all funds allotted to the district board and the income arising from all sources of income placed at its disposal under section 34;

(*f*) all rents and profits accruing from property vested in the district board or managed by the district board or a local board in the district;

(*g*) all sums contributed to the fund by Government or by any committee, board, or private person;

(*h*) all sums received by the district board or by a local board in the district in the discharge of functions exercised by it under this Act; and

(*i*) the proceeds of all sources of income which the Local Government may order to be placed at the disposal of the district board:

Provided that the Local Government may revoke any order made under clause (*i*).

Vesting, custody, and investment of district fund.

36. (1) The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government treasury or sub-treasury, or in the bank to which the government treasury business has been made over, unless the Local Government in any cases otherwise permits.

(2) Subject to such rules as the Governor-General in Council may make in this behalf, the district board may, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other securities as the Governor-General in Council may approve in this behalf, and vary such investments for others of the same nature, or dispose of them. The income resulting from the securities, and the proceeds of the sale of the same, shall be credited to the district fund.

Application of district fund

37. (1) The district fund shall be charged with the payment of the expenses of the district-post, the payment of the expenses of pauper lunatics sent to public asylums from the area under the authority of the district board the expenses incurred in auditing the accounts of the district boards and local boards, and such portion of the cost of the Provincial Departments for education, sanitation, vaccination, medical relief, and public works as may be held by the Local Government to be equitably debitable to the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section (1), and to such rules as the Local Government may make with respect to the priority to be given

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to the several duties of the board or otherwise, the district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the matters specified in sections 20, 27, 28, and 29, and to the provision of grants-in-aid to educational and medical institutions, within the area subject to the authority of the district board, and, with the sanction of the Commissioner, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Works or undertakings benefiting several districts.

38. In the case of works or undertakings which benefit more districts than one, when the district boards cannot agree, the Commissioner or Commissioners of the division or divisions, or, when the districts are in different divisions, and the Commissioners cannot agree, the Local Government, may determine what proportion of the expenses of the work or undertaking shall be borne by each of the district funds of the districts benefited thereby ; and such proportion shall be payable out of the several district funds accordingly.

Annual estimates of income and expenditure of district boards.

39. (1) Every district board shall appoint a finance committee consisting of not less than three of its members.

(2) Every district board shall, on or before a prescribed day in each year, hold a meeting at which the finance committee shall submit to the board an estimate of the income and expenditure of the board for the next financial year, in such form as the Local Government may, by a rule made under this Act, prescribe.

(3) The board shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The board shall, on or before a prescribed day, cause copies of the estimate, as provisionally approved by it, to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner shall, on or before a prescribed day, signify in writing to the board his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the nature of his objection. The board shall then consider the matter, and either modify the estimate, so as to remove the objection, or refer it through the Deputy Commissioner to the Commissioner of the division. If the Commissioner concurs in the objection, he shall make such modification in the estimate as may, in his judgment, be necessary to remove the objection in whole or in part. If he does not concur in the objection, he shall pass the estimate, and his order shall be final and binding on the board.

(6) When the Deputy Commissioner has signified his approval of an estimate, or the board has modified an estimate so as to remove the Deputy Commissioner's objections, or when the Commissioner has passed orders as provided in sub-section (5), no expenditure which is not provided for in the estimate as approved or modified shall be incurred during the year to which the estimate relates without the previous sanction of the Deputy Commissioner.

(7) When the Deputy Commissioner is a member of the district board, the Commissioner and the Local Government shall take the place of the Deputy Commissioner and the Commissioner respectively for the purposes of this section.

Accounts of district boards.

40. Accounts of the receipts and expenditure of every district board shall be made up periodically to such days and in such form as the Local Government prescribes, and

shall be examined and audited as soon as may be after they are so made up by such persons as the Local Government appoints in this behalf.

Estimates and accounts of local boards.

41. (1) Every local board shall submit annually to the district board of its district, on or before such date as the district board may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the local board for the coming financial year, and shall submit, as often as the district board may require, accounts of its receipts and expenditure.

(2) The district board shall signify in writing to the local board its approval or disapproval of an estimate submitted under this section, and powers similar to those conferred on the Deputy Commissioner and Commissioner by section 39, clauses (5) and (6), shall be exercised, in regard to the estimate, by the district board and the Deputy Commissioner, or (when the Deputy Commissioner is a member of the district board) the Commissioner, respectively :

Provided that, during the currency of any financial year, the Deputy Commissioner may sanction transfers of provision within the estimate finally approved, when inconvenience or undue delay would be caused by a previous reference to the district board.

(3) The district board shall make arrangements, subject to the approval of the Deputy Commissioner, for the examination and audit of accounts submitted to it under this section, and may arrange for the publication of such accounts,

Inspection of estimates and accounts.

42. Every district board shall cause a copy of every annual estimate provisionally or finally approved under section 39, and of every account made up under section 40, to be kept at its office ; and any person paying rates or taxes under this Act may, at all reasonable times, inspect any such estimate or account without payment of any fee.

Publication of abstract of accounts.

43. A statement of the accounts of a district board for each financial year, showing the income of the district fund under each head of receipt, the charges for establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared by the board in such form as the Local Government prescribes; and an abstract of the same shall be published in the English and Vernacular official Gazettes, or in such other manner as the Local Government may direct.

G.—Control.

Control of Commissioner and Deputy Commissioner over boards and joint committees.

44. (1) The Commissioner of the division, or the Deputy Commissoiner of the district when he is not a member of the district board, may—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any local board, district board, or joint committee, or any work in progress within those limits under the direction of any such board or committee;

(*b*) by order in writing call for and inspect any document in the possession or under the control of any such board or committee having authority within those limits;

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(c) by order in writing require any such board or commitee to furnish such statements, accounts, reports, and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and

(d) record in writing, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) If any difference of opinion arises between officers exercising the powers conferred by sub-section (1), it shall be referred—

(a) if it arises between two or more Deputy Commissioners in the same division—to the Commissioner; and

(b) if it arises between two or more Deputy Commissioners in different divisions or between two or more Commissioners—to the Local Government;

and the decision thereon of the Commissioner or of the Local Government, as the case may be, shall be final.

Power to suspend action.

45. The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend, within the division or district respectively, the execution of any resolution or order of a district board or local board or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order, or act, is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body or persons.

Extraordinary powers of Deputy Commissioner in case of emergency.

46. (1) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a district board or local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the district board.

(2) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance in priority to all other charges against the same.

Power to provide for performance of duties in case of default of board.

47. (1) When the Commissioner, after due enquiry, is satisfied that a district board has made default in performing any duty imposed upon it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty, and, if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, by the board to that person.

(2) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance in priority to all other charges aginst the same.

Power to invest other officers with power of control.

48. When the control and administration of any public work is, by or under this Act, transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government

may invest any officer with respect to that work with the powers of a Commissioner under section 44 or section 47, or with the powers of a Deputy Commissioner under section 46.

Report of action under preceding sections.

49. When the Commissioner makes any order under section 45 or section 47, he shall forthwith forward to the Local Government, and when the Deputy Commissioner makes any order under section 45 or section 46, or an officer empowered under section 48 makes any order under section 46 or section 47, he shall forthwith forward to the Commissioner, for submission to the Local Government, a copy of the order, with a statement of the reasons for making it, and with such explanation, if any, as the board or committee concerned may wish to offer. The Local Government may thereupon confirm, modify, or rescind the order.

Powers of Local Government and its officers over boards.

50. (1) It shall be the duty of the Local Government and of all Commissioners and Deputy Commissioners acting under its orders to require that the proceedings of district boards and local boards shall be in conformity with law and with the rules in force thereunder.

(2) The Local Government may exercise all powers necessary for the purpose of sub section (1), and may, amongst other things, by order in writing, annul any proceeding which it considers not to be in conformity with law and with the said rules.

(3) The Commissioner of the division and the Deputy Commissioner of the district may, within their jurisdiction, for the same purpose, exercise such powers as may be conferred upon them by rules made in this behalf by the Local Government.

Power of Local Government to supersede, in case of incompetency, persistent default, or abuse of powers.

51. If a district board or local board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor-General in Council, by notification, in which the reasons for so doing shall be stated, declare the board to be superseded :

Provided that, in case of public emergency, the notification may be issued without the previous approval of the Governor General in Council, but shall be immediately reported to the Governor-General in Council, and shall be subject to his orders.

Consequences of supersession.

52. When a district board or local board is superseded under section 51, the following consequences shall ensue :—

(*a*) All members of the board shall, from the date of the notification, vacate their offices as such members :

(*b*) All powers and duties of the board may, until the board is re-constituted, be exercised and performed by such person as the Local Government appoints in that behalf :

(*c*) Where a district board is superseded, all property vested in it shall, until it is re-constituted, vested in Her Majesty.

Constitution of new board, and transfer of functions of superseded local boards.

53. (1) When a district board is superseded, the Local Government shall, as soon as in its judgment conveniently may be, constitute another district board in its place.

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(2) When a local board is superseded, the Local Government may either constitute another local board in its place, or transfer its functions to the district board or, by a notification under section 10, to any other local board.

Disputes.

54. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more boards constituted under this Act, or between a municipal committee or cantonment authority and any such board, the matter shall be referred—

(a) to the Deputy Commissioner, if the local authorities concerned are in the same district;

(b) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and

(c) to the Local Government, if the local authorities concerned are in different divisions, and the Commissioners of those divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case mentioned in clause (a), the Deputy Commissioner is a member of one of the boards or committees concerned, his functions under this section shall be discharged by the Commissioner.

(4) "Local authority" in this section means a district board, local board, municipal committee, or cantonment authority.

Power of the Governor-General in Council and the Local Government to make rules.

55. So far as may be consistent with the provisions of this Act—

(1) the Governor-General in Council may—

(a) make general rules or special orders for the regulation of taxation under section 30; and

(b) make rules regulating the powers of district boards to make, vary, and dispose of investments;

(2) the Local Government may, for any district or local board, or any class of such boards, make rules for—

(c) dividing boards into classes, and fixing the powers of boards of each class;

(d) determining the mode and time of appointment or election of members of boards, the term of office, allowances (if any), and the qualifications and disqualifications of such members, and the qualifications and disqualifications of voters, and generally for regulating all elections under this Act;

(e) regulating the powers of boards to transfer property;

(f) regulating the powers of boards to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;

(g) determining the intermidiate offices, if any, through which correspondence between boards or members of boards and the Local Government or its officers shall pass;

(h) determining the language in which business shall be transacted;

(i) the employment, payment, suspension, and removal of officers and servants under section 27;

(j) the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district;

(k) the application of district funds;

(l) the form of estimates of income and expenditure under section 39;

(m) the form of accounts and the manner of periodical audit under section 40;

(*n*) the publication of abstracts of accounts under section 43;

(*o*) the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned;

(*p*) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 50;

(*q*) the conduct of proceedings of boards, including the fixing of a quorum, the appointment or election of a chairman, and the term of office of a chairman and vice-chairman;

(*r*) the appointment and payment of auditors of the accounts of boards; and

(*s*) the guidance of district boards when suits or other proceedings are intended to be or have been instituted by or against them in Civil Courts; and

(*t*) generally determining the relations between district boards and local boards, and guiding boards and Government officers in all matters connected with the carrying out of the provisions of this Act.

All such rules and alterations of rules shall be notified, and no rules or alteration of rules under clause (2) (*d*) shall come into operation until three months after they have been notified.

H.—Regulations.

Power to make regulations.

56. (1) Every district board or local board empowered in this behalf by the Local Government may make regulations for carrying out all or any of the purposes of this Act.

(2) A regulation made under this section shall not have effect until it has been confirmed by the Local Government and published in such manner and for such time as the Local Government may direct.

Penalty for infringement of regulations.

57. (1) In making any regulation under section 56, a board may direct that a breach of the same shall be punished with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

(2) In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term which may extend to eight days:

Prosecutions.

58. (1) Prosecutions under this Act for breach of regulations may be instituted by any board, or by any person authorized by the board in this behalf.

(2) A Judge or Magistrate shall not be deemed to be within the meaning of section 555 of the Code of Criminal Procedure a party to, or personally interested in, any case under this section merely because he is a member of the board.

I.—Supplemental and Exceptional Provisions.

Liability of members of boards.

59. Every person shall be liable for the loss, waste, or misapplication of any money or other property belonging to the district board, if such loss, waste, or misapplication, is a direct consequence of his neglect or misconduct while a member of a

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local board or of the district board, and a suit for compensation for the same may be instituted against him in such Court as the Local Government directs, by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Procedure for making rules and regulations.

60. (1) The Local Government, before making any rules under section 55 or section 67, and a district or local board, before making any regulations under section 56, shall publish, in such manner as the Local Government may deem sufficient for giving information to persons interested, a draft of the proposed rules or regulations, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the rules or regulations, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(2) Every such rule or regulation shall be published in the official Gazette in English and in such other language as the Local Government directs, and such publication shall be conclusive evidence that the rule or regulation has been made as required by this section.

Acquisition of land.

61. Where any land is required for the purposes of this Act, the Local Government may, at the request of a district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on the payment by the board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board.

Penalty on member, officer, or servant being interested in contracts made with a board or joint committee.

62. (1) If any member, officer, or servant of a district or local board or joint committee appointed under this Act, is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that board or joint committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168.

(2) A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and a board or committee; but he shall not take part in any proceedings of the board or committee relating to any such contract.

Saving for Act XI. of 1879.

63. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

General powers of Local Government and Commissioners.

64. In all matters connected with this Act, the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

Contracts of local committees.

65. Every contract entered into, whether in its own name or in the name of the Government, by the committee appointed in a district under section 11 of the Panjáb Local Rates Act, 1878, may be enforced by and against the district board constituted for that district under this Act, in like manner as it might have been by and against the committee if this Act had not been passed.

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Government officers serving under committees to continue under board.

66. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 17 of this Act shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government.

Power of Local Government to except local area from operation of Act.

67. (1) If the circumstances of any district or part of a district are, in the opinion of the Local Government, such that all or any of the provisions of this chapter are unsuited thereto, the Local Government may, by notification in the official Gazette, except the district or part from the operation of those provisions; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a like notification.

(2) While any notification under this section is in force, the Local Government may make rules to provide for any matter dealt with by the provisions to which the notification applies.

Committee to be constituted for district wholly excepted from Act.

68. When a district is excepted, under section 67, from all the provisions of this chapter, a committee shall, except where the Local Government for special reasons otherwise directs, be constituted for the control and administration in that district of the matters mentioned in section 20, or of such of them as the Local Government may, from time to time, specify; and the Local Government shall, from time to time, determine the manner in which the members of the committee shall be appointed and removed, define the functions and authority of the committee, and place at its disposal, subject to such control as the Local Government thinks fit,—

(*a*) the balance standing at the credit of the district fund at the time when the district is excepted or, as the case may be, the balance of the allotments made for the district under section 7 of the Panjáb Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district at that time;

(*b*) all proceeds of rates which, but for the district being excepted, would be allotted to the district board under section 9 of this Act; and

(*c*) such other sources of income mentioned in section 35 of this Act as the Local Government thinks fit:

Provided that not less than one-half of the members of the committee shall be persons who own landed property or reside or carry on trade or business in the district and are not servants of the Government.

Power to direct that Act XX. of 1856 shall cease to be in force.

69. (1) When any local area in which Act XX. of 1856 (*An Act to make better provision for the appointment and maintenance of Police Chaukídárs in Cities, Towns, Stations, Suburbs, and Bázárs in the Presidency of Fort William in Bengal*) is in force is included in any local area over which a district board established under this Act has authority, the Local Government may, by notification, direct that that Act shall cease to be in force in the local area so included, and that every pancháyat constituted under that Act for that local area shall cease to exist.

(2) When a direction is issued under this section in respect of any local area in which the said Act XX. of 1856 is in force, the amount, if any, then available under section 36 of that Act for purposes of improvement in that local area shall be expended therein by the Deputy Commissioner for such purposes.

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CHAPTER IV.

Supplemental Provisions as to Taxation.

Recovery of rates.

70. All rates and taxes imposed under this Act, and all arrears of such rates and taxes, may be recovered as if they were arrears of land-revenue.

Local rate or tax how to be assessed and collected.

71. (1) The Local Government may, by notification, determine the persons by whom the local rate or any tax imposed under this Act shall be assessed and collected, and make rules for the assessment and collection of the rate or tax, and direct in what manner persons employed in the assessment or collection shall be remunerated.

(2) The provisions of section 60 shall apply to all rules made under this section.

Appeals.

72. (1) In matters connected with the assessment and collection of any rate or tax leviable under this Act, an appeal shall lie from the order of any person authorized under this Act to make assessments or collections to such person as the Local Government appoints:

Provided that the appeal shall be presented within 30 days from the date of the order.

(2) The order passed on an appeal under this section shall be final.

Instalments of rates and taxes.

73. (1) The Local Government may, by notification, prescribe by what instalments and at what times any rate or tax leviable under this Act shall be payable:

Provided that every instalment of the local rate leviable under section 5 shall be payable with an instalment of the land-revenue.

(2) In any local area subject to the authority of a district board the Local Government may, by notification, delegate to the board, subject to such conditions as it thinks fit, its powers under this section.

Power of Local Government to exempt from taxation.

74. The Local Government may, by notification, remit or reduce any rate or tax imposed under this Act, or exempt any person or class of persons, or any description of property, wholly or in any part, from liability to any such rate or tax, and cancel any such remission, reduction, or exemption.

Power to direct measurements.

75. When measurements are necessary for the assessment of the local rate or of any tax imposed under this Act, the Local Government may, by notification, direct such measurements to be made.

Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.

76. Suits for the recovery from co-sharers, tenants, or others of any sum on account of any rate or tax imposed under this Act, and suits on account of illegal exaction of any such rate or tax, or for settlement of accounts connected therewith, shall, unless the Local Government otherwise directs, be cognizable by the Courts which for the time being have cognizance of suits for rent due on land.

Confirmation and recovery of existing rates.

77. All rates for the maintenance of roads, schools, or the district-post, for the payment of which provision has been made in any settlement-record previous to the passing of this Act, or which have been habitually levied by Government, shall be

deemed to have been and to be legally imposed, and to have been and to be legally recoverable as if they were arrears of land-revenue payable directly to Government and due on the land in respect of which they are payable.

CHAPTER V.

AMENDMENT OF THE NORTHERN INDIA FERRIES ACT, 1878.

Amendment of the Northern India Ferries Act.

78. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely :—

Management of ferries may be vested in committees and boards.

"7A. The Local Government may direct that any public ferry, wholly or partly within the area subject to the authority of a district board or local board in any district in the territories under the administration of the Lieutenant-Governor of the Panjáb, shall be managed by that board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund ; and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly."

Further amendment.

79. In section 6 of the same Act, after the words "section seven," and in section 17 of the same Act, after the words "section seven" where they first occur, the following shall be inserted, namely :—" and section 7A."

ACT NO. XXI. OF 1883.

INDIAN EMIGRATION.

RECEIVED THE G.-G.'S ASSENT ON THE 18TH DECEMBER 1883.

An Act to amend the law relating to the Emigration of Natives of India.

WHEREAS it is expedient to amend the law relating to the emigration of Natives of India ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (1) This Act may be called the Indian Emigration Act, 1883.

(2) It extends to the whole of British India.

Exemption of Government vessels.

2. Nothing in this Act or in any rule made under this Act shall apply to any vessel belonging to, or in the service of, Her Majesty or of the Government of India.

Commencement.

3. Except as to the power to make rules, this Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints.

Repeal of enactments.

4. On and from the day on which this Act comes into force, the Indian Emigration Act, 1871, and Act No. XIV. of 1872 *(to exempt the Straits Settlements from the Indian Emigration Act, 1871)* shall be repealed.

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Saving for proceedings under repealed enactments.

5. All notifications issued, contracts entered into, rules and appointments made, and licenses granted under any enactment hereby repealed, and in force on the day on which this Act comes into force, shall (so far as they are consistent with this Act) be deemed to have been respectively issued, entered into, made, and granted under this Act.

Definitions.

6. In this Act, unless there is something repugnant in the subject or context,—

(1) "Emigrate" and "emigration" denote the departure by sea out of British India of a native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements :

Provided that a domestic servant when accompanying his employer shall not be deemed to emigrate within the meaning of the above definition :

(2) "Emigrant" means any native of India who emigrates, or has emigrated, within the meaning of the above definition, or who has been registered under this Act as an emigrant, and includes any dependent of an emigrant :

(3) "Dependent" means any of the following persons accompanying any emigrant, namely :—

(*a*) any woman who has not entered into an agreement to emigrate under this Act ;

(*b*) any child in whose name and on whose behalf any such agreement has not been entered into ; and

(*c*) any aged or incapacitated relative or friend :

(4) "Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Magistrate under this Act :

(5) "Registering Officer" means any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Registering Officer under this Act :

(6) "Recruiter" includes a head recruiter or other person who collects or receives emigrants recruited by other persons :

(7) "Vessel" includes anything made for the conveyance by water of human beings or property :

(8) "Emigrant-vessel" means a vessel the master of which is licensed under this Act to carry emigrants therein : and

(9) "Master" means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel.

CHAPTER II.

Ports from which, and Countries to which, Emigration is lawful.

Ports from which emigration is lawful.

7. (1) Emigration shall not be lawful except from the ports of Calcutta, Madras, and Bombay, and from such other ports as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, declares to be ports from which emigration is lawful.

(2) The Governor-General in Council may at any time, by a like notification, revoke any notification issued under this section.

(3) The Local Government may, from time to time, by notification in the official Gazette, fix, for the purposes of this Act, the limits of any port from which emigration is lawful.

Countries to which emigration is lawful.

8. (1) Emigration shall not be lawful except to the countries specified in the first schedule hereto annexed, and to such other countries as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, declares to be countries to which emigration is lawful.

(2) Every notification under this section must contain a declaration that the Governor-General in Council has been duly certified that the Government of the country to which the notification refers has made such laws and other provisions as the Governor-General in Council thinks sufficient for the protection of emigrants to that country during their residence therein.

Power for Governor-General in Council to prohibit emigration to any country.

9. (1) Whenever the Governor-General in Council has reason to believe that any of the grounds, hereinafter mentioned, for prohibiting emigration to any country to which emigration is lawful, exists, he may, by notification in the *Gazette of India*, declare that emigration to that country shall cease to be lawful from a day specified in the notification; and from that day emigration to that country shall accordingly cease to be lawful.

(2) The grounds referred to in sub-section (1) of this section are—

(*a*) that the plague or any other epidemic disease dangerous to human life has broken out in the country;

(*b*) that the mortality among emigrants in the country is excessive;

(*c*) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein;

(*d*) that the agreements made with emigrants, as such, before their departure from India, are not duly enforced by the Government of the country; and

(*e*) that the Governor-General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain information regarding the condition or treatment of emigrants therein, has not, within a reasonable time, received the information asked for.

Power for Local Government to suspend emigration pending reference to Governor-General in Council.

10. (1) Whenever the Local Government has reason to believe that, in any country to which emigration is lawful, the plague or other epidemic disease dangerous to human life has broken out, and that emigrants, if allowed to emigrate to that country, would be exposed to serious risk of life on arrival there, it may, by notification in the official Gazette, declare that emigration to that country from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor-General in Council.

(2) The Local Government shall at once report the publication of a notification under this section, with the reasons for it, to the Governor-General in Council, who shall thereupon publish a notification in the *Gazette of India* confirming or cancelling the notification published by the Local Government.

Revocation of prohibition.

11. Whenever the Governor-General in Council is satisfied that the ground on which a notification has been published by him under either of the two last foregoing sections with respect to any country has ceased to exist, he may, by notification

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in the *Gazette of India*, declare that emigration to that country shall again be lawful from a day to be specified in the notification.

Power for Local Government to prohibit emigration to specified country from the whole or any specified part of its territories.

12. (1) The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, prohibit, from a day specified in the notification, all natives of India, or any specified class of natives, from emigrating from the whole or any specified part of the territories under its administration to any specified country.

(2) The Local Government may, with the like sanction, in like manner, vary or cancel any notification published under this section.

Saving for acts done before publication of notification.

13. The publication of a notification under any of the four last foregoing sections shall not affect any act done, offence committed, or proceedings commenced before the publication.

CHAPTER III.

EMIGRATION AGENTS.

Appointment of Emigration Agents.

14. (1) The Government of every country to which emigration is lawful may, from time to time, appoint a person to be Emigration Agent in any port from which emigration is lawful, and may suspend or remove any person so appointed.

(2) An appointment under this section shall not take effect until the Local Government, by notification in the official Gazette, has declared its approval of the appointment.

Remuneration of Agents.

15. The remuneration to be given to an Emigration Agent shall not depend on, or be regulated by, the number of emigrants sent by him, but shall be in the nature of a fixed salary:

Provided that the Governor-General in Council may, from time to time, authorize the payment to specified Emigration Agents of special fees for occasional work.

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

Appointment of Protectors of Emigrants.

16. (1) The Local Government may, from time to time, appoint a proper person to be the Protector of Emigrants for any port within the territories administered by it from which emigration is lawful.

(2) The Governor-General in Council may, from time to time, define the local area to which the authority of any Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants may be suspended or removed by the Local Government which appointed him.

(4) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

General duties of Protector.

17. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

(*a*) protect and aid with his advice all emigrants;

(*b*) cause, so far as he can, all the provisions of this Act and of the rules made under this Act to be complied with;

(*c*) inspect, on arrival, all vessels bringing return-emigrants to the port for which he is Protector;

(*d*) enquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return-voyage, and report thereon to the Local Government; and

(*e*) aid and advise the return-emigrants so far as he reasonably can.

Appointment of Medical Inspector.

18. (1) The Local Government may, from time to time, appoint a Medical Inspector of Emigrants at each port from which emigration is lawful, and may suspend or remove him.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

Protector and Medical Inspector to have facilities for inspection.

19. Every Emigration Agent, and all persons in charge of, or employed in, any depôt established under this Act, or in charge of, or employed in, any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for making such inspections, examinations, and surveys as are required by this Act or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require.

CHAPTER V.

Recruiters.

Protector of Emigrants to license recruiters

20. (1) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the local area to which the authority of the Protector extends.

(2) A person shall not, unless he holds a license granted under this chapter,—

(*a*) enter into, or attempt to enter into, any agreement with any person purporting to bind him to emigrate, or

(*b*) in consideration of any hire or reward, induce, or attempt to induce, any person to leave any place for the purpose of emigrating, or

(*c*) act or be employed in any other respect as a recruiter of emigrants.

(3) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

Form of license.

21. Every license granted under this chapter shall specify the particular country for which, and the local area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule hereto annexed.

Duration of license.

22. (1) A license granted under this chapter shall not be in force for longer period than one year from the day on which it comes into force.

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(2) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this chapter before the expiration of the period for which it is in force.

Counter-signature of license.

23. (1) A recruiter shall not, in any place beyond the limits of a port from which emigration is lawful, enter, or attempt to enter, into any agreement with any person purporting to bind him to emigrate, or induce or assist, or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act or be employed in any other respect as a recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(2) If a District Magistrate has satisfied himself, after such enquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, he may refuse to countersign a recruiter's license.

(3) If a District Magistrate has satisfied himself, after such enquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the depôt at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(4) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

Power for Magistrate to cancel countersignature in certain cases.

24. If any Magistrate, having countersigned a recruiter's license, afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided for intending emigrants or emigrants collected by him has become unsuitable or has ceased to be available, he may require the licensee to produce his license, and may cancel the countersignature on it, or may impound the license and send it for cancellation to the Protector of Emigrants who granted it.

Notice to Protector of Emigrants of countersignature, refusal to countersign, or cancellation of countersignature.

25. When a Magistrate countersigns, or refuses to countersign, a recruiter's license, or cancels the countersignature on it, he shall at once report the countersignature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

Recruiter to be supplied with statement of terms of agreement he is authorized to offer.

26. (1) The Emigration Agent on whose application any recruiter is licensed shall supply the recruiter with a written or printed statement, signed by the Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorized to offer on behalf of the Agent to intending emigrants.

(2) The statement shall be both in English and in the Vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(3) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

Accommodation to be provided by recruiters.

27. (1) Every recruiter shall provide sufficient and proper accommodation in a suitable place for such intending emigrants or emigrants as may be collected by him pending their registration or removal to the port of embarkation.

(2) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(3) Every District Magistrate, and any subordinate Magistrate or officer of police authorised in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided under this section, the same powers as are by this Act conferred on a Protector of Emigrants in respect of depôts at the port of embarkation.

(4) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of police authorized as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER VI.

Registration of Emigrants and Execution of Agreements to emigrate.

Power for Local Government to appoint Registering Officers.

28. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform in a specified local area, but subject to the control of the District Magistrate or such other officer as the Local Government appoints, by name or by virtue of his office, in this behalf, the functions of a Registering Officer under this Act.

Execution of agreements.

29. Every agreement to emigrate entered into by any person must—

(*a*) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector;

(*b*) if executed elsewhere, be executed in the presence of a Registering Officer.

Appearance of intending emigrants before Registering Officer.

30. Every recruiter who desires to engage any person to emigrate shall appear before a Registering Officer or the Protector of Emigrants (as the case may be) with that person, and with any persons intending to accompany that person as his dependents.

Examination and registration of emigrant.

31. (1) The Registering Officer or Protector shall thereupon examine the person, apart from the recruiter, with reference to his intended agreement; and, if it appears that he is competent and willing to enter into the agreement and understands its nature, that he has not been induced to enter into it by any coercion, undue influence, fraud, misrepresentation, or mistake, that its terms are in conformity with law, and are such as, according to the statement furnished to the recruiter under section twenty-six, he was authorized to offer, shall, subject to the provisions of section thirty-three, register in a book to be kept for the purpose, in such form as the Governor-General in Council, from time to time, by rules made under this Act, prescribes, the name, sex, name of the father, caste, occupation, and age of the intending emigrant, and the name of the village or place of which he is a resident, and such other particulars (if any) concerning him and his dependents (if any) as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

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Power to refuse registration in case of married women.

32. (1) Notwithstanding anything contained in the last foregoing section, the Registering Officer or Protector may refuse to register any married woman under that section if he finds that her husband does not consent to her emigrating.

(2) The Registering Officer or Protector may also, in the case of any woman whom he believes to be married, refuse to decide whether he will register her until after the expiration of such time, not exceeding ten days, as he thinks fit.

Examination of dependent.

33. (1) When any person appears before a Registering Officer or Protector under section thirty as a dependent of an intending emigrant, the Registering Officer or Protector shall, if the person is able to give intelligent answers to questions, examine him, apart from the recruiter, as to his dependence on the intending emigrant whom he is about to accompany and as to his willingness to emigrate.

(2) Where the Registering Officer or Protector sees reason to doubt the existence of the dependence or willingness, he may, if he thinks fit, refuse to register the intending emigrant unless the name of the dependent is omitted from the register.

Record of reasons for refusal to register

34. Whenever the Registering Officer or Protector refuses to register any intending emigrant, he shall record his reasons for the refusal.

Execution and attestation of agreement.

35. (1) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, the Registering Officer or Protector shall cause an agreement to be prepared in triplicate, and shall call on the recruiter and the intending emigrant to execute the agreement in triplicate in his presence, and, if they execute it, shall attest the execution with his signature.

(2) An agreement to emigrate shall not be of any effect until the particulars concerning the intending emigrant and his dependents (if any) have been registered, and the agreement has been executed and attested under this Act.

(3) When the particulars concerning any intending emigrant and his dependents (if any) have been registered and an agreement has been executed and attested under this Act, the intending emigrant shall be deemed to be registered under this Act as an emigrant.

Contents of agreement.

36. Every agreement to emigrate shall contain a copy of the particulars registered concerning the intending emigrant and his dependents (if any) under section thirty-one, and on the reverse such particulars concerning the nature, duration, and term of service and the remuneration of the emigrant, and such other matters (if any) as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Disposal of copies of agreement.

37. When the agreement has been executed and attested, one copy thereof shall be delivered to the recruiter for transmission to the Emigration Agent, another shall be delivered to the emigrant, and the third shall be retained by the Protector or sent by the Registering Officer to him.

Fee for preparation of agreement.

38. For the preparation of every agreement under this chapter the recruiter or Emigration Agent shall pay such fee as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes :

Provided that the Governor-General in Council may at any time, by like notification, declare that the fee payable under this section shall be consolidated, either generally or in any specified local area, with the fee payable under section seventy-three.

Power to make agreement if over 16.

39. Notwithstanding anything to the contrary in the Indian Contract Act, 1872, it shall be lawful for any person of the age of sixteen years or upwards to enter in manner in this Act provided into an agreement to emigrate to any place to which emigration is lawful.

Power to make agreement on behalf of child or ward.

40. Any person entering into an agreement to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided, binding the child to emigrate with him.

CHAPTER VII.

EMIGRATION DEPÔTS.

Depots to be established at ports of embarkation.

41. Every Emigration Agent shall establish at the port for which he is appointed a suitable depôt for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depôt.

Licensing of depôts.

42. (1) A depôt established under the last foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

(2) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(3) The Protector of Emigrants may at any time cancel a license under this section—

(*a*) if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or

(*b*) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

Inspection by Protector and Medical Inspector.

43. The Protector of Emigrants and the Medical Inspector shall, from time to time, and at least once in every week during which any emigrants may be kept in any depôt at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depôt, and examine the state of the depôt, and the manner in which the emigrants therein are lodged, fed, clothed, and otherwise provided for and attended to.

Report by Medical Inspector.

44. The Medical Inspector, shall report to the Protector of Emigrants any circumstance that may come to his knowledge, showing that any depôt is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

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45. (1) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depôt.

Treatment of emigrant suffering from disease.

(2) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector or Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

CHAPTER VIII.

Conveyance of Emigrants to Depôts and Procedure on Arrival.

46. A recruiter shall not remove or attempt to remove any intending emigrant to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depôt, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

Emigrant not to be removed before registration.

47. (1) Every emigrant must, after he has been registered under this Act, be conveyed with all convenient despatch, by or under the orders of the recruiter or Emigration Agent, to the depôt established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

Conveyance of emigrant to depôt.

(2) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(3) The Magistrate shall give to the person so appointed a certificate signed by him, stating, that he has been appointed for the journey to the depôt.

(4) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

48. The arrival at a depôt of each emigrant must immediately be reported by the person in charge of the depôt to the Emigration Agent, and by the Agent to the Protector of Emigrants.

Report of arrival at depôt.

49. (1) The copy of the agreement received by the recruiter from the Registering Officer or Protector must, as soon as conveniently may be after the arrival of the emigrant at the depôt, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

Examination by Medical Inspector.

(2) The Medical Inspector shall examine each emigrant entered in the agreement to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(3) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

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50. (1) In any of the following cases, namely:—

Power for Protector to order payment of expenses of return of emigrant in certain cases.

(*a*) if the Medical Inspector of Emigrants finds that an emigrant is, or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(*b*) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

(*c*) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and, when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(2) Any emigrant who has been registered at any place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed, and attended to at the depôt at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

51. (1) When any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation, any emigrant who has been registered as his dependent,

Payment of expenses of dependents and relatives.

or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian, or ward of the emigrant, shall be entitled—

(*a*) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and

(*b*) if the emigrant is unable to travel, to be lodged, fed, and clothed in the depôt at the expense of the Emigration Agent until the emigrant is able to travel.

(2) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

52. If it appears that during the journey to the depôt any emigrant has suffered any ill-treatment, or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section forty-seven have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—

Compensation to emigrant for ill-treatment on journey.

(*a*) to the emigrant a reasonable sum by way of compensation, and

(*b*) if any expenses have been incurred by or under the orders of the Protector on behalf of the emigrant by reason of the neglect to comply with the provisions of section forty-seven, to the Protector the expenses so incurred.

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Power for Protector to pay and recover expenses incurred on behalf of emigrant.

53. (1) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant.

(2) Every sum paid by the Protector to an emigrant under sub-section (1), and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(3) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

Master of emigrant-vessel to be licensed.

54. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government.

Application for license

55. (1) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the Protector of Emigrants to the Local Government for the license.

(2) The application must state the number of emigrants which, according to the rules as to space contained in this chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Survey and licensing of vessel.

56. (1) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness, and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel, and furniture requisite for her intended voyage.

(2) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein, specifying the number of emigrants which may be received on board.

Accommodation required on board emigrant vessel.

57. (1) A license shall not be granted under the last foregoing section unless—

(*a*) there is provided for the emigrants, either between decks or, subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;

(*b*) a separate place is fitted up for a hospital; and

(*c*) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

(2) The cabins on the upper deck provided under clause (*a*) of this section must be firmly secured and entirely covered in.

Rules as to space on board emigrant-vessel.

58. Every emigrant-vessel must contain within the space referred to in clause (*a*) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant:

Provided that two emigrants under the age of ten years shall, for the purposes of this section, count as one only.

Provisions, clothing, fuel, and water.

59. There must be on board every emigrant-vessel at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel, and water for the emigrants (over and above the supply for the master, officers, and crew, and of the cabin and other passengers, if any), in such quantity and of such description and quality as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Surgeons, attendants, medicines, and stores.

60. Every emigrant-vessel must, at the time of departure of the vessel from the port at which the emigrants embark, have on board, and must carry with her, a properly qualified surgeon, and also such compounders, interpreters, and attendants subordinate to the surgeon, and such medicines and other stores, in such quantity and of such quality as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

Duty of Protector and Medical Inspector with respect to enforcement of foregoing sections.

61. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.

Bond to be executed by master of emigrant-vessel.

62. (1) Every master licensed under this Act shall, on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector, in duplicate, a bond, in such form as the Local Government, from time to time, prescribes, binding himself and the owner of the vessel in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner respectively.

(2) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

Time of embarkation after arrival.

63. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the depôt.

Time at which emigrant-vessels may leave India.

64. (1) An emigrant-vessel shall not sail from any port in British India—

(*a*) to any country west of the Cape of Good Hope, except at such seasons as the Governor-General in Council, from time to time, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country;

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(b) to any country during any season which the Governor-General in Council, from time to time, by notification in the *Gazette of India*, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

Procedure if emigrant refuses to embark.

65. If any emigrant, without sufficient cause, refuses or neglects to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark; but nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

List of, and passes for, emigrants.

66. (1) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages, and occupations of the emigrants, and the names of their respective fathers.

(2) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(3) Every emigrant shall on embarkation deliver the pass to the master.

(4) The master shall compare the emigrants who embark and the passes delivered by them with the list supplied by the Emigration Agent; and, if the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(5) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master, or is not mentioned in the list.

Disposal of the two copies of list to be given by master to Protector.

67. (1) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(2) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

Disposal of the two copies of list to be given by master to Emigration Agent.

68. (1) The master shall give to the Emigration Agent the two remaining copies of the list.

(2) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(3) The master shall, on the arrival of the vessel at the country to which the emigrants have agreed to emigrate, and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

Examination of emigrants by Medical Inspector.

69. (1) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(2) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian, or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(3) The provisions of sections fifty, fifty-one, and fifty-three, shall apply to emigrants who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

Emigration Agent to deliver agreements to emigrate to master.

70. The Emigration Agent shall, after all the emigrants have embarked, deliver to the master all the agreements made by the Emigration Agent or under his authority with the emigrants, and delivered or sent to him under this Act; and the master shall, on arrival at the country to which the emigrants are to be conveyed, deliver these agreements to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

Certificates from Protector of emigrants and Emigration Agent.

71. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that port in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being, and protection of emigrants which are contained in this Act, or in the rules made under this Act, have, in the case of that vessel, been complied with.

Copies of Act and rules to be kept on board.

72. The master of every emigrant-vessel shall keep on board the vessel during the whole voyage two copies of this Act, and of all rules made under this Act, and two copies of a translation of this Act, and of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

Fee for each embarked emigrant.

73. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes:

Provided as follows:—

(*a*) the fee payable under this section shall not be more than is, in the opinion of the Governor-General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor-General in Council thinks necessary to provide for the control of emigration:

(*b*) if it appears to the Governor-General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor-General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

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Duty of master to see to observance of Act and rules on board his vessel.

74. It shall be the duty of every master licensed under this Act to see that all the provisions of this Act and the rules made under this Act are observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

Return of pass to emigrant.

75. The master shall return his pass to each emigrant before he disembarks in the country to which he has agreed to emigrate.

Special Provisions as to Vessels sailing from Calcutta.

Emigrant-vessel sailing from Calcutta to depart within 24 hours of embarkation.

76. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

Emigrant-vessel sailing from Calcutta to be towed to sea.

77. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

Power of surgeon of emigrant-vessel leaving Calcutta to require sick emigrants to be sent to hospital.

78. (1) When an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever, or small-pox, appears on board, the master shall, if so required by the surgeon in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents, and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian, or ward of any such emigrant, and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

(2) The provisions of sections fifty, fifty-one, and fifty-three, shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

Power of surgeon of emigrant-vessel leaving Calcutta to require all emigrants to be landed when cholera appears.

79. (1) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require the master to land all the emigrants on board the vessel at Diamond Harbour.

(2) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor-General in Council, from time to time, by rules made under this Act, prescribes.

CHAPTER XI.

RULES.

Power for Governor-General in Council to make rules.

80. (1) The Governor-General in Council may, from time to time, make rules consistent with this Act—

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(*a*) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of police to be authorized to visit and inspect those places;

(*b*) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act;

(*c*) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein, and the language or languages in which agreements must be expressed;

(*d*) to prescribe the conditions on which licenses for the establishment of depôts under this Act may be given, to provide for the supervision and regulation of depôts, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there;

(*e*) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act;

(*f*) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state;

(*g*) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangements to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel;

(*h*) to prescribe the description, quantity, and quality of provisions, fuel, and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage;

(*i*) to fix the number of the compounders, interpreters, and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel;

(*j*) to prescribe the nature, quantity, and quality of medicines and other stores to be carried on board emigrant-vessels;

(*k*) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets, and other appliances to be used in case of shipwreck or fire;

(*l*) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful;

(*m*) to provide for the disposal of emigrants who may be landed under section seventy-nine;

(*n*) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage;

(*o*) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care;

(*p*) to define and regulate the powers and duties of the several officers appointed by the Government under this Act; and

(*q*) generally to provide for the security, well-being, and protection of emigrants:

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Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (g) of this section, permit an emigrant-vessel to sail, though it does not carry the proportion of women required to be carried in ordinary cases.

(2) The power to make rules conferred by this section may be exercised at any time after the passing of this Act, but any rule made under this section shall not take effect until the Act comes into force.

Publication of drafts and rules.

81. (1) The Governor-General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor-General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

CHAPTER XII.

OFFENCES.

Unlawful recruiting.

82. (1) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

(a) makes, or attempts to make, any agreement with any native of India, purporting to bind him to emigrate, or

(b) in consideration of any hire or reward, induces, or attempts to induce, any native of India to leave any place for the purpose of emigrating, or otherwise acts or is employed as a recruiter of emigrants, or

(c) in consideration of any hire or reward, receives into or detains in any place, or, being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or after his registration as an emigrant and before his departure for the depôt at the port of embarkation,

shall be punished with fine which may extend to five hundred rupees.

(2) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any police-officer may arrest him without warrant.

Recruiters removing unregistered emigrants to depôt.

83. Whoever, being a recruiter licensed under this Act,—

(a) removes, or attempts to remove, any intending emigrant to a depôt before he has been registered under this Act as an emigrant, or induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned before he has been so registered, or aids, or attempts to aid, him in leaving any such local limits or going to any depôt before he has been so registered, or

(b) fails to give a true copy of the statement with which he is provided under section twenty-six to any person whom he invites to emigrate, or

(*c*) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depôt,

shall be punished with fine which may extend to five hundred rupees.

Fraudulently inducing native to emigrate.

84. Whoever, by means of intoxication, coercion, or fraud, causes or induces, or attempts to cause or induce, any native of India to emigrate, or to enter into any agreement to emigrate, or to leave any place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

False representation of Government authority.

85. Whoever, without lawful authority, issues any written order to the police to assist himself or any other person to procure emigrants, or falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Receiving emigrants on board vessel in contravention of Act.

86. If any master of a vessel—

(*a*) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act, or the rules made under this Act, so far as they are binding on him, or

(*b*) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or

(*c*) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both; and the vessel, her tackel, apparel, and furniture, may be declared by the Court before which the master is tried to be forfeited to Her Majesty.

Fraudulent acts on part of master.

87. If any master licensed under this Act fraudulently does, or suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, he shall be punished with fine which may extend to five thousand rupees;

and he may also be sued on any bond which he may have executed under section sixty-two.

Clearance without compliance with Act.

88. If any master of an emigrant-vessel clears, or attempts to clear, his vessel outwards when any of the provisions of section fifty-seven, fifty-nine, or sixty, have not been complied with in respect of his vessel, he shall be punished with fine which may extend to four thousand rupees.

Failure of master to comply with provisions as to lists and passes.

89. If any master receives on board his vessel any emigrants, and fails to comply with the requirements of sections sixty-six, sixty-seven, and sixty-eight in respect of those emigrants, he shall be punished with fine which may extend to two hundred rupees for each emigrant so received on board.

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Master taking on board, aftér clearance, emigrants not entered in list.

90. If any master, having cleared his vessel, takes on board any emigrant not entered in the list mentioned in section sixty-six, or not furnished with a pass required by that section, he shall be punished with fine which may extend to two hundred rupees for each emigrant so taken.

Master landing emigrant at other than specified country.

91. If any master lands any emigrant in any country other than the country for which he has been shipped by the Emigration Agent, he shall be punished for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section seventy-eight or seventy-nine.

Failure to comply with provisions as to leaving Calcutta.

92. If any master of a sailing-vessel leaving the port of Calcutta with emigrants on board—

(*a*) does not leave Garden Reach with his vessel within the time prescribed in section seventy-six, or

(*b*) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section seventy-seven,

he shall be punished with fine which may extend to one thousand rupees.

Emigrant deserting or refusing to proceed to depôt.

93. (1) If any emigrant deserts before arrival at depôt, or refuses without reasonable cause to proceed to the depôt, he shall be punished with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering, and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Emigrant deserting from depôt or failing to embark.

94. (1) If any emigrant—

(*a*) deserts from the depôt, or

(*b*) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering, and conveying him to the depôt, and maintaining him therein, or with both.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

Causing, or permitting, embarkation of emigrant in contravention of section 63.

95. If any person causes, or if any master knowingly permits, any emigrant to embark contrary to the provisions of section sixty-three, he shall be punished with fine which may extend to two hundred rupees for each emigrant so embarked.

Institution of prosecutions.

96. (1) Prosecutions under sections eighty-six to ninety-five (both inclusive) shall not be instituted except as follows, namely :—

(*a*) Prosecutions under sections eighty-six to ninety-two, both inclusive, by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government.

(*b*) Prosecutions under section ninety three, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation.

(*c*) Prosecutions under section ninety-four, by the Emigration Agent with the sanction of the Protector.

(*d*) Prosecutions under section ninety-five, by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

Defence to charges of desertion.

97. The following shall be good defences to charges under section ninety-three and ninety-four, respectively, namely :—

(*a*) to a charge under section ninety-three, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived, or defrauded by the recruiter or any person under his control ;

(*b*) to a charge under section ninety-four, that the emigrant has suffered any ill-treatment or neglect in the depôt or on the journey thither.

Power for Customs-officers to search and detain for purposes of Act.

98. All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

CHAPTER XIII.

SUPPLEMENTAL.

Power for Local Government to appoint Magistrates for purposes of Act.

99. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform, within a specified local area, the functions of a Magistrate under this Act.

Suits against Emigration Agent for breach of duty.

100. (1) Whenever an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

(2) In awarding compensation under this section, all sums ordered to be paid under section fifty or section fifty-two shall be taken into consideration.

Power for Governor-General in Council to determine probable lengths of voyages for purposes of Act.

101. (1) The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, determine what shall be held to be, for the purposes of this Act, the probable length of the voyages by sailing-vessels and vessels using steam-power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

(2) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule hereto annexed, to the countries mentioned in that schedule, shall be deemed to be the lengths stated in that schedule.

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Power for Governor-General in Council to exempt emigration to Native States adjoining the Straits Settlements from Act.

102. On and from such a date as the Governor-General in Council may, by notification in the *Gazette of India*, fix in this behalf, a native of India who departs by sea out of British India under an agreement to labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act.*

Application of Act to emigration from British ports to French and Dutch colonies.

103. The provisions of this Act shall apply to emigration from British Indian ports—

(*a*) to the French colonies, under the terms of the Convention executed at Paris on the first day of July 1861, and ratified at the same place on the 30th day of July 1861, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French; and

(*b*) to the Netherlands colony of Dutch Guiana, under the terms of the Convention executed at the Hague on the 8th day of September 1870, and ratified at the same place on the 17th day of February 1872, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Netherlands:

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in either of those Conventions, the latter shall prevail.

Application of Act to proceedings in British India connected with emigration from French ports in India to French colonies.

104. The provisions of this Act shall, so far as they relate to proceedings which are to be conducted in British India, apply, in the case of natives of India who depart by sea from a French port in India under an agreement to labour for hire in a French colony, under the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French referred to in the last foregoing section, as if such natives were emigrants within the meaning of this Act:

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in that Convention, the latter shall prevail.

Prohibition of departure by land of a native of India under an agreement to labour for hire in some country beyond the sea

105. (1) The departure by land out of British India of a native of India under a contract to labour for hire in some country beyond the sea other than the Island of Ceylon or the Straits Settlements is prohibited:

Provided that nothing in this section applies to the departure by land—

(*a*) of a domestic servant when accompanying his employer;

(*b*) of a native of India for the purpose of departing by sea from a French port in India under an agreement to labour for hire in a French colony in accordance with the Convention referred to in section one hundred and two.

(2) Whoever induces, or attempts to induce, any native of India to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under section eighty-two.

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* This section has been substituted by Act XXI. of 1884 for the one originally enacted.

SCHEDULE I.

(*See section 8.*)

Countries to which Emigration is lawful.

I.—The British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis, and Fiji.
II.—The French Colonies of Martinique, Guadeloupe and its dependencies, and Guiana.
III.—The Netherlands Colony of Dutch Guiana.
IV.—The Danish Colony of St. Croix.

SCHEDULE II.

(*See section 21.*)

Form of Recruiter's License.

Office of the Protector of Emigrants at the Port of .

A B, described in the descriptive roll annexed, is hereby licensed under the Indian Emigration Act, 1883, to be a recruiter of emigrants for [*here state the country for which the recruiter is licensed to recruit*] in [*here specify the local area within which the recruiter is licensed to recruit*].

This license will be in force until the of , unless previously cancelled.

(*Signed*) *C. D.*,
Protector of Emigrants.

Dated the day of .

Descriptive Roll.

Name.	Father's Name.	Age.		Caste.	Colour.	Height.		Distinguishing marks.	Name of village, local sub-division (tahsîl, taluq, &c.) and district to which he belongs.
		Years.	Months.			Feet.	Inches.		

SCHEDULE III.

(*See section 101.*)

Probable Lengths of Voyage under this Act.

From Calcutta—

Destination	Length of voyage
To Mauritius	From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Twenty weeks.
To Natal	Twelve weeks.
To Fiji	Eighteen weeks.

From Madras—

Destination	Length of voyage
To Mauritius	From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Nineteen weeks.
To Natal	Ten weeks.
To Fiji	Seventeen weeks.

From Bombay—

Destination	Length of voyage
To Mauritius	From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	Nineteen weeks.
To Natal	Ten weeks.
To Fiji	Seventeen weeks.

ACT NO. XXII. OF 1883.

1883.

Act 22.

RANGOON TRAMWAYS.

RECEIVED THE G.-G.'S ASSENT ON THE 18TH DECEMBER 1883.

An Act to authorize the making, and to regulate the working, of Street Tramways in Rangoon.

WHEREAS the Municipal Committee of the town of Rangoon, by an agreement dated the 22nd day of June 1882, a copy whereof is set forth in the schedule annexed to this Act, granted, for the considerations therein expressed, to John William Darwood, his heirs, executors, administrators, and assigns, hereinafter called the Grantee, the right to construct, maintain, and use a tramway or tramways in Rangoon upon the terms, subject to the conditions and in the manner mentioned in the said agreement, but the said agreement was made subject to the confirmation thereof by the Chief Commissioner of British Burma and to the recognition thereof by an Act of the Governor-General in Council;

and whereas the said agreement was, on the 13th day of November 1882, confirmed by the Chief Commissioner of British Burma; and it is now expedient to recognise it and give effect to it, subject to the provisions and limitations hereinafter contained;

It is hereby enacted as follows:—

A.—Preliminary.

Short title.

Commencement.

1. This Act may be called the Rangoon Tramways Act, 1883; and

it shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"Committee" means the Committee for the town of Rangoon appointed under the British Burma Municipal Act, 1874:

"tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line, or track belonging to a tramway:

"street" means the way of any street, road, thoroughfare, passage, or place along or across which any tramway authorized by this Act is or is intended to be laid, and includes the surface-soil and sub-soil of any such street, and the foot-way and drains of any such street, and any bridge, culvert, or causeway forming part of any such street.

B.—Powers of Grantee generally.

Powers to make, maintain, and use tramways.

3. Subject to the provisions of this Act, and to the terms and conditions of the said agreement, so far as the same are not inconsistent with this Act, the Grantee may make, maintain, and use any of the tramways for the construction, maintenance, and use of which provision is made in the said agreement:

Provided that any such tramway shall not be opened for public traffic until it has been inspected and certified by the engineer to the Committee to be fit for such traffic.

C.—Construction and Maintenance of Tramways and of Streets on which they are laid.

Power to Grantee to break up streets and lay rails, &c.

4. Subject to the terms and conditions of the said agreement, the Grantee may, from time to time, for the purpose of constructing, maintaining, or renewing any tramway under this Act, open or break up any street, and therein or thereon lay sleepers and rails, and repair, alter, or remove the same; and may, for the purposes aforesaid, do in and on any such street all other acts which may, from time to time, be necessary for constructing, maintaining, or renewing the tramway:

Provided that he shall not, without the consent of the Committee, open or break up at any one time a greater length than one hundred yards of any street which does not exceed a quarter of a mile in length; and, in the case of any street exceeding a quarter of a mile in length, he shall leave an interval of at least a quarter of a mile between any two places at which he may open or break up the street, and shall not open or break up at any such place a greater length than one hundred yards.

Grantee to keep tramways and adjoining part of street in repair.

5. The Grantee shall, at his own expense, at all times maintain and keep in good condition and repair, in such manner as the Committee from time to time direct, all tramways constructed by him under this Act, and so much of any street as lies between the rails of any such tramway; and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

Obligations of Grantee when he has broken up street.

6. When the Grantee has, for the purposes of section 4 or section 5, opened or broken up any portion of a street, he shall be under the following further obligations, namely:—

(*a*) he shall, with all convenient speed, and in all cases within six weeks at the most, unless the Committee otherwise consent in writing, complete the work for which the street has been opened or broken up, fill in the ground, and make good the surface, and, to the satisfaction of the Committee, restore the street to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby;

(*b*) he shall, in the meantime, cause the place where the street is opened or broken up to be fenced and watched, and to be properly lighted at night, and

(*c*) he shall make good all damage done to drains, sewers, water-pipes, and gas-pipes, and to the wires or other materials or things used for any system of lighting, and whether belonging to the Committee, to the Government, or to private persons, and shall make compensation for any other damage done in the execution of the powers granted to him.

Reservation of power of Committee and Government over streets.

7. (1) Nothing in this Act shall prevent the Committee or any Government officers from opening, breaking up, widening, altering, diverting, or improving any street traversed by a tramway for the purposes for which they might otherwise under the law for the time being in force lawfully open, break up, widen, alter, divert, or improve such street:

Provided that—

(a) they shall cause as little detriment or inconvenience to the Grantee as circumstances admit, and

(b) before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the Grantee not less than eighteen hours' previous notice of their intention to commence the work, specifying the time at which they will commence it.

(2) The Committee or officers aforesaid, or the Secretary of State for India in Council, shall not be liable to pay to the Grantee any compensation for injury done to the tramway by the execution of any work referred to in sub-section (1), or for loss of traffic occasioned by the reasonable use of any power lawfully exercised in connection with the same.

D.—Rights over Tramways and Streets on which they are laid.

Grantee's exclusive right over tramways.

8. The Grantee shall, subject to the provisions of this Act, and to the terms and conditions of the said agreement, have the exclusive use of his tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail: * * *

Provided that nothing in this Act shall affect—

(a) the right of the public to pass along or across any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail, or

(b) the right of the Commissioners for the port of Rangoon, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

Grantee to have right of user only.

9. Notwithstanding anything in this Act or in the said agreement, the Grantee shall not acquire any right other than that of user over any street along or across which he lays any tramway.

Power of Committee and Government officers to regulate traffic on streets.

10. Nothing in this Act shall affect the powers of the Committee or of any Government officers to regulate the passage of any traffic along or across any street along or across which any tramway is laid down, and the Committee or officers aforesaid may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the Grantee as to the traffic of other persons.

E.—Traffic on Tramways.

Rates of fares and charges.

11. The Grantee may, from time to time, by a notice published in such languages and in such manner as the Chief Commissioner may prescribe, fix the rates of fares and charges for carrying passengers and goods in his carriages:

Provided that the rates of passenger fares shall not exceed one anna per mile for each passenger in the lower class, and two annas per mile for each passenger in the higher or first class.

Mode of payment of fares and charges.

12. The fares and charges by this Act authorized shall be paid to such persons, at such places upon or near to the tramways, and in such manner and under such regulations as the Grantee may, by a notice published as aforesaid, from time to time prescribe.

1883.
Act 22.

Carriage of dangerous or offensive goods.

13. (1) No person shall be entitled to carry or to require to be carried on any tramway constructed under this Act any goods of a dangerous or offensive nature.

(2) Every person taking such goods with him on any such tramway shall, before entering the carriage, give notice of their nature to the servant of the Grantee in charge of the carriage.

(3) Every person sending such goods by any such tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the book-keeper or other servant of the Grantee with whom they are left at the time of such sending.

(4) The Grantee may refuse to take any parcel which he may suspect to contain goods of a dangerous or offensive nature, or require it to be opened to ascertain the fact.

F.—Offences and Penalties.

Penalty for failure of Grantee to comply with certain provisions of Act and agreement.

14. If the Grantee—

(*a*) constructs or maintains any tramway, or runs any car or carriage thereon, otherwise than in accordance with the said agreement;

(*b*) opens any tramway for traffic before it has been inspected and certified in manner required by section 3;

(*c*) opens or breaks up any street otherwise than as permitted by this Act, or having opened or broken up a street fails to discharge any of the obligations imposed on him by section 6, clauses (*a*) and (*b*); or

(*d*) fails to keep the rails of any tramway and the portions of the street adjoining the same in repair as required by section 5—

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the said agreement or to any other remedy against him), on complaint of the Committee or of any person injuriously affected thereby, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for each day after the first day during which the offence continues to be committed.

Penalty for obstructing Grantee in the exercise of his powers.

15. Any person who, without lawful excuse (the proof whereof shall lie on him), wilfully obstructs any person acting under the authority of the Grantee in the lawful exercise of his powers in constructing, repairing, or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, shall be punished with fine which may extend to fifty rupees.

Penalty for interfering with tramway.

16. Any person who, without lawful excuse (the proof whereof shall lie on him), wilfully does any of the following things, namely:—

(*a*) interferes with, removes, or alters any part of a tramway constructed under this Act, or of the works connected therewith;

(*b*) does anything in such a manner as to obstruct any carriage using any such tramway; or

(*c*) abets, within the meaning of the Indian Penal Code, the doing of anything mentioned in clause (*a*) or clause (*b*),—

shall be punished with fine which may extend to one hundred rupees.

Penalty for taking or sending dangerous or offensive goods without giving notice.

17. Any person taking or sending by any tramway any goods of a dangerous or offensive nature without giving the notice required by section 13 shall be punished with fine which may extend to fifty rupees.

18. If any person travelling or having travelled in any carriage of the Grantee avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional fare for the additional distance or attempts to avoid payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit the carriage, he shall be punished with fine which may extend to ten rupees.

Penalty for avoiding payment of proper fare.

19. Any servant of the Grantee, and any person called in by him for his assistance, may arrest and take to the nearest police-station any person who is discovered either in or after committing or attempting to commit an offence punishable under section 18, and whose name and residence are refused by him, and are unknown to such servant or person; and the police-officer in charge of the police-station, on receiving a complaint that such an offence has been committed, shall adopt such legal measures as may be necessary to cause the accused person to be taken before a Magistrate with the least possible delay.

Power of servant of Grantee to arrest persons avoiding payment of fare.

G.—Powers to make Rules.

20. (1) The Committee in special meeting may, with the sanction of the Chief Commissioner, from time to time, make such rules consistent with this Act as to the rate of speed, number of passengers, and mode of use of the tramways, and as to the licensing and control of drivers, conductors, and other persons having charge of the carriages of the Grantee, as the convenience and safety of the public may, in the opinion of the Committee, require.

Powers to make rules.

(2) The Grantee may, with the like sanction, from time to time make rules consistent with this Act for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to him, and for regulating the travelling in any carriage belonging to him.

(3) The authority making any rule under this section may prescribe as a punishment for the breach of it a fine which may extend to twenty rupees.

(4) All rules made under this section shall be published in the *British Burma Gazette.*

H.—Miscellaneous.

21. For the purpose of clause 15 of the agreement set forth in the schedule annexed to this Act, the want of sufficient funds shall not be deemed to be a circumstance beyond the control of the Grantee.

Construction of clause 15 of agreement.

22. The plaint, rolling-stock, and other vehicles, yards, workshops, engine-sheds, and depôts of the Grantee, shall, for a period of five years from the passing of this Act, be exempt from all municipal taxation, except such lighting and water-rates as may, from time to time, be payable in respect of the yards, workshops, engine-sheds, and depôts.

Exemption from certain municipal taxation

23. Nothing in this Act shall exempt the Grantee or any tramway constructed by him under this Act from the provisions of any general enactment relating to tramways now in force or which may hereafter be passed.

Provisions as to general Acts.

1883.

Act 22.

And whereas the agreement set forth in the schedule annexed to this Act was executed by the parties thereto under a belief that all the streets specified in the first article thereof as streets along which the construction of tramways was authorized were situate within the Municipality of Rangoon, and it now appears that some portion of those streets is not so situate; It is hereby enacted as follows:—

Certain streets to be deemed within the Municipality.

24. All streets specified in the first article of the said agreement as streets along which the construction of tramways is authorized shall, for the purposes of the agreement and of this Act, be deemed to be, and to have been, on and from the date of the agreement, situate within the limits of the Municipality of Rangoon.

SCHEDULE.

ARTICLES OF AGREEMENT, made this 22nd day of June 1882, BETWEEN THE MUNICIPAL COMMITTEE OF THE CITY OF RANGOON appointed under the British Burma Municipal Act, 1874, hereinafter called the said Committee, of the one part, and JOHN WILLIAM DARWOOD, of Rangoon, hereinafter called the said Grantee, of the other part. WHEREAS the said Committee have, subject to the confirmation thereof by the Chief Commissioner of British Burma, and to the recognition of this agreement by an Act of the Governor-General of India in Council, agreed to grant to the said Grantee the right to construct, maintain, and use a tramway or tramways in Rangoon upon the terms and conditions hereinafter contained, NOW THESE PRESENTS WITNESS that, in consideration of the covenants and agreements hereinafter contained, and on the part of the said Committee to be performed, the said Grantee for himself, his heirs, executors, administrators, and assigns, doth covenant with the said Committee, so far as the covenants and conditions hereinafter contained are to be performed by the said Grantee and his heirs, executors, administrators, and assigns, and the said Committee, for and in consideration of the covenants and agreements hereinafter contained, and on the part of the said Grantee, his heirs, executors, administrators, and assigns to be performed, do hereby covenant with the said Grantee, his heirs, executors, administrators, and assigns, so far as the covenants and agreements hereinafter contained are to be performed by the said Committee, in manner following, that is to say:—

1. The said Committee grant to the said Grantee and his heirs, executors, administrators, and assigns, all which persons are hereinafter included in the words "the said Grantee," the right to construct, maintain, and use a tramway or tramways, with single or double tracks or lines, and with all necessary sidings, turnouts, connections, and lines, or tracks of whatever nature which may be required to connect the said tramway or tramways with the depôts of the said Grantee (but in the case of sidings and turnouts, only in such places as the said Committee may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Committee:—

The tramways referred to and now authorized for construction, subject to such confirmation as aforesaid, are:—

(i) A tramway with a double track or line along China Street and Pagoda Road from the Strand Road at its junction with China Street to the Shway Dagone Pagoda.

(ii.) A tramway with a double track or line along the Strand Road from East Street to West Street.

(iii.) A tramway with a double track or line along Dalhousie Street from East Street to the junction of Dalhousie Street with the Strand Road.

(iv.) A tramway with a double track or line along Soolay Pagoda Road from the Strand Road to Montgomery Street, and along Montgomery Street to the Phayre Street Railway Station, and along Montgomery Road to the iron bridge near the Bázár at Poozooudoung.

(v.) A tramway with a double track or line from the Strand Road down Barr Street to Shafraz Road round the Public Buildings back into the Strand Road.

2. When approved of and desired by the said Committee, tramways with such tracks or lines as may be approved of by the said Committee from East Street to Monkey Point, and along the Upper and Lower Poozoondoung Roads to Monkey Point, and along Merchant Street, Fraser Street, and Canal Street, and along Lower Kemmendine Road from the Strand Road, Kemmendine, to the junction of West Street with the Strand Road.

3. The said tramway or tramways to be constructed and maintained in such form and manner, and upon such gradient and with such gauge, as the said Committee may approve, and the cars and carriages intended to run on the said rails shall be such as are approved of by the said Committee.

4. The cars and carriages of the Grantee on the tracks or lines of the said tramway shall, unless with the consent of the said Committee, be worked with steam power of the most approved engine of the time only, and the said Committee shall have power at all times to make such regulations as to the rate of speed and mode and use of the said tracks or lines as the convenience and safety of the public using the streets may require.

5. The said Grantee shall have power from time to time to fix the rate of fares for carrying persons and goods in the cars or carriages to be run on the said tramway or tramways : provided that the rates of fares shall for any distance not exceed the rate of one anna per mile for the lower class, and two annas per mile for the higher or first class for each passenger.

6. The said Grantee may, for the purpose of constructing and maintaining such tramways under such superintendence as is hereinafter specified, open and break up the soil and metalled way of the several streets, roads, and bridges in the city, and thereon lay sleepers and rails, and from time to time repair, alter, or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets, roads, and bridges, and the said Grantee may, in and on such streets, roads, and bridges, do all other acts which he shall from time to time deem necessary for constructing and maintaining street tramways in the said city, doing as little damage as may be in the execution of the powers hereby granted, and shall make good all damage done to drains, sewers, water and gas-pipes, or to the wires or other materials or things used for any other system of lighting, and whether belonging to the said municipality or to private individuals, and shall make compensation for any other damage done in the execution of such powers.

7. Before the said Grantee proceeds to open or break up any street, road, or bridge other than those referred to in sub-clauses from (i) to (v) in clause 1, he shall obtain the approval in writing of the said Committee to the tracks or lines of the said tramway being laid down on the said streets, roads, or bridges, and the said Grantee, before opening or breaking up any street, road, or bridge, shall give to the said Committee or their Executive Engineer, or other municipal officer duly appointed for that purpose, notice in writing of his intention to open or break up the same not less than three clear days before beginning such work, except in such cases of emergency arising from defects in any of the rails or other works, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

8. No street, road, or bridge, shall, except in cases of emergency as aforesaid, be opened or broken up, except under the superintendence of the said Committee or of their Executive Engineer, or of some other municipal officer duly appointed for that purpose, and according to such plans as shall be approved of by him or them : provided always that, if the said Committee or their Engineer or other such officer as aforesaid fail to attend at the time fixed for the opening of any such street, road, or bridge after having had such notice of the said Grantee's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Grantee may perform the work specified in such notice without such superintendence as aforesaid.

9. When the said Grantee opens or breaks up the roadway or pavement of any street, road, or bridge, he shall, with all convenient speed, complete the work for which the same shall be broken up, and fill in the ground, and make good the roadway or pavement so opened or broken up as aforesaid, and carry away the rubbish

occasioned thereby, and deposit the same for the use of the said Committee at such place as the Executive Engineer of the said municipality shall direct, and shall at all times, whilst any such roadway or pavement shall be so opened or broken up, cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such roadway or pavement where the same shall be open or broken up every night during which the same shall continue open or broken up.

10. If the said Grantee opens or breaks up any street, road, or bridge without giving such notice as hereinbefore mentioned, or in a manner different from that which shall have been approved of or determined as aforesaid, except in the cases in which the said Grantee is hereby authorized to perform such work without any superintendence or notice, or if the said Grantee shall make any unnecessary delay in completing any such work, or in filling the ground or reinstating and making good, so far as is consistent with the existence of the said tramway, the roadway or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if he neglect to cause the place where such roadway or pavement has been broken up to be guarded and lighted, he shall forfeit to the said Committee a sum not exceeding fifty (50) rupees for every such offence, and he shall forfeit an additional sum not exceeding fifty (50) rupees for each day during which any such delay or neglect as aforesaid shall continue after he shall have received notice thereof.

11. The said Grantee shall maintain and keep in repair such portion of the streets, roads, and bridges in the city of Rangoon as shall be occupied by his tracks or lines, including therein, not only the space between his tracks or lines, but a space eighteen inches on either side thereof, and in consideration of the maintenance of such streets, roads, and bridges as aforesaid, and of the yearly rent hereinafter mentioned to be paid by the Grantee, the plant, rolling-stock, and other vehicles, yards, workshops, engine-sheds, and depôts of the said Grantee, shall be exempt from municipal taxation for a period of five years, except lighting and water-rates for such yards, workshops, engine-sheds, and depôts.

12. The said Grantee shall be liable for any loss, damage, or injuries that any person or persons may sustain by reason of any defect or want of repairs in any of the plant, rolling-stock, or other properties of the said Grantee, or by reason of any carelessness, neglect, or misconduct of his agents or servants in the management, construction, or use of the said tramways or any portion thereof, or in the exercise of the power given by clauses 6, 7, 8, and 11 ; the same shall be made good by the said Grantee, and in the event of any suit being instituted against the said Committee in respect of any of the matters hereinbefore mentioned, the said Grantee shall, within fourteen days from the receipt of a notice thereof from the said Committee, settle the same ; but if the said Grantee choose to defend such suit, he shall be at liberty to do so upon his undertaking to indemnify the said Committee against all losses, damages, and expenses in respect thereof : provided always that, if the said Grantee fail to settle such suit or to indemnify the said Committee as is hereinbefore provided, it shall be lawful for the said Committee to settle the same without any consent or concurrence on the part of the said Grantee, and the sums which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said Grantee.

13. Nothing in this agreement shall be construed to prevent the said Committee from taking up any of the public streets or roads traversed by the said tramway for the purposes for which the said Committee may lawfully take up the same, and the said Grantee shall have no right to claim cost from the said Committee for obstructing the tramway or causing delay in the traffic so long as the delay shall not be unreasonable for the work to be performed.

14. If the said Committee shall hereafter alter the level of any street, road, or bridge along or across which any tramway by this agreement authorized is laid or authorized to be laid, the Grantee shall alter or (as the case may be) lay his rails to suit the altered level of such street, road, or bridge : provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use or working thereof.

15. If at any time after the opening of any tramway for traffic the said Grantee shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the said Grantee), it shall be lawful for the said Committee, without any previous notice to the said Grantee, to remove the tramway or part of the tramway so discontinued, and the said Grantee shall pay to the said Committee the cost of such removal and of the making good of the street, road, or bridge, and the certificate of the said Committee or of their Engineer as to such cost shall be conclusive.

16. The provisions of this agreement shall remain and be in force for a term not less than twenty-one (21) years from the date thereof. The said Committee shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock, sheds, depôts, and yards, and everything connected therewith, after the expiration of the said twenty-one (21) years, upon declaring its intention so to do within six months after the expiration of the said twenty-one (21) years; the amount to be paid in the event of such purchase shall be the actual *boná-fide* value at the termination of this agreement, exclusive of any compensation for good-will, premium on compulsory sale, or other consideration whatever, of the tramways and of the work and materials connected therewith, and of the lands and buildings and all the other property of the Grantee, such value to be decided by mutual agreement or by arbitration as hereinafter provided.

17. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said Grantee by any route or routes to be hereafter sanctioned by the said Committee, and to the works connected with or incidental to such tramways, it being agreed that in the event of the Municipality failing to declare its intention as above provided to purchase the property of the said Grantee the terms of this contract shall continue in force during the period of six months from the date of the determination of these presents and for a further period of six months, and if the said Committee shall not within that time exercise the option of purchase hereby given, the said Committee and the said Grantee shall enter into a fresh agreement.

18. The said Grantee will, if required by the said Committee, before opening up the roadway of any street, road, or bridge, deposit with the Bank of Bengal in the name of the said Committee the sum of rupees five thousand (5,000), or, in their option, promissory notes of the Government of India of the nominal value of rupees five thousand (5,000), and the same will remain so deposited until the completion by the said Grantee of the above-mentioned lines of tramway herein sanctioned for construction. All interest accruing on the said sum, or the said notes, shall be credited to the said Grantee, and, subject as next hereinafter mentioned, be paid to him as the same accrues due. The said Committee shall be entitled to deduct all fines recoverable by the said Committee and all monies to which they may be entitled under any clause or clauses of these presents out of the sum so deposited, or the interest accruing on the said sum or notes, or out of the proceeds of sale of a portion of the said notes on completion of the tramways herein sanctioned for immediate construction.

19. In consideration of the concession herein granted, the said Grantee undertakes, on behalf of himself, his heirs, executors, administrators, and assigns, that he will pay to the said Committee a yearly rent of rupees three thousand (3,000) per mile of double track or line, and rupees two thousand (2,000) per mile of single track or line, payable half-yearly; the date on which such rent on each line of tramway shall begin to accrue shall be the date on which such line of tramways is open for public traffic.

20. It is agreed that the tramway or tramways from the Strand Road along Barr Street and Shafraz Road round the Public Buildings and back to the Strand Road should not be included, and that no sidings, turnouts, or tracks necessary to connect the traffic lines with the carriage-sheds, engine-sheds, factories, depôts, yards, or other property or properties of the said Grantee, shall be included in the mileage on which rent is to be paid, the tramway or tramways more particularly described in this paragraph, and such sidings, turnouts, and necessary connecting tracks or lines, being free of rent.

21. The sleepers, rails, materials, and implements, and other erections placed and erected by the said Grantee on the streets, bridges, or roads under the powers hereby granted, shall be and remain the property of the said Grantee, and the said Grantee shall have the exclusive use of his tramway or tramways for carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

22. The prescribed rail is that known as the box-rail introduced by Mr. Robinson Souttar, to be made of Bessemer steel of the weight of sixty pounds to the yard, or such other rail of such weight as may be approved by the said Committee.

23. The said Grantee shall have the exclusive right of laying and using tramways within the limit of the Rangoon Municipality on the terms herein stated : but in the event of the said Grantee refusing to lay down any line when the said Committee may consider it necessary, the said Committee shall be at liberty to grant the right of laying and using such line to any other party.

24. Unless the said Grantee shall have commenced the work of laying down the said tramways within twelve months from the date of the execution of these articles of agreement, the said Committee shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways ; it being agreed, however, that these conditions of contract are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said 12 months shall date from the day on which notice of such sanction is given to the said Grantee : provided also that any delay in commencing the work beyond 12 months shall not have been due to any cause beyond the control of the said Grantee.

25. If any doubt, difference, or dispute, shall arise between the said Grantee and the said Committee touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference, or dispute shall be referred to the arbitration of two persons, one to be chosen by the said Grantee and the other by the said Committee within one calendar month after either of them shall have made to the other a requisition to that effect ; and should the arbitrators fail to agree, they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final ; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone, and the decision of such arbitrators, umpire, or arbitrator, as the case may be, shall be effectual and binding upon both parties.

26. The said Grantee is to be at liberty to form a Company or Limited Liability Company for the purpose of constructing, maintaining, and working the tramways authorized by, or hereafter to be authorized under, the terms of this agreement. The words "the said Grantee" used in this agreement shall include such Company or Limited Liability Company so formed as aforesaid.

27. The words "the said Committee" used in this agreement shall include the present Committee and their successors, and also persons empowered by the said Committee or their successors or by other duly constituted authority to do any act or thing, or exercise any powers or authorities, which the said Committee are hereinbefore authorized or empowered to do or exercise.

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ACT NO. I. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 4TH JANUARY 1884.

An Act to amend the law relating to the granting of honorary degrees by the Universities at Calcutta, Madras, and Bombay.

WHEREAS it is expedient to amend the law relating to the granting of honorary degrees, and to give to the Universities at Calcutta, Madras, and Bombay the power of granting the degree of Doctor in the faculty of law to persons who have not undergone a previous examination;

and whereas the executive government of each of the said Universities is, by bye-laws made under the Acts establishing the same, vested in a Syndicate consisting of the Vice-Chancellor and certain of the fellows;

It is hereby enacted as follows:—

Repeal of Act XXI. of 1875.

1. Act No. XXI. of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed.

Power to confer honorary degree of Doctor in the faculty of law.

2. If the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate of any of the Universities at Calcutta, Madras, and Bombay, recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and their recommendation is supported by a majority of those present at a meeting of the Senate, and is confirmed by the Chancellor, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to confer on that person the degree of Doctor in the faculty of law, without requiring him to undergo any examination.

ACT NO. II. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 18TH JANUARY 1884.

An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby;

It is hereby enacted as follows:—

Certain unregistered instruments of partition to have same force and effect as registered instruments.

1. Notwithstanding anything contained in any Act to the contrary, instruments of partition relating to immoveable property in the Madras Presidency, which have been executed before the passing of this Act, and have not been registered, shall have the same

force and effect as if they had been registered under the law in force at the time when they were executed :

Provided that this Act shall not—

(a) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or

(b) affect the title of a transferee for value in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or

(c) affect any right established by a final decree of a Court of competent jurisdiction.

Compensation to person deprived of right owing to transfer under section 1, clause (b).

2. When any person to whom any right has accrued on the partition, or any person claiming under that person has, by any such transfer as is mentioned in section one, clause (b), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has directly or indirectly caused such privation of right, or, if the sharer is dead, from his assets :

Provided that suit be brought within three years after the date on which this Act comes into force, or within three years from the date of the transfer, if the transfer is made after this Act comes into force.

ACT NO. III. OF 1884.

CRIMINAL PROCEDURE CODE AMENDMENT ACT.

RECEIVED THE G.-G.'S ASSENT ON THE 25TH JANUARY 1884.

An Act to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882 ; It is hereby enacted as follows :—

Amendment of section 25.

1. In section 25, after the words "British India," the following shall be inserted :—

"Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving."

Addition to section 191.

2. To section 191 the following shall be added, namely :—

"When a Magistrate takes cognizance of an offence under clause (c), the accused, or, when there are several persons accused, any one of them, shall be entitled to require that the case shall, instead of being tried by such Magistrate, be either transferred to another Magistrate, or committed to the Court of Session."

Amendment of section 443.

3. In section 443, before the words "Presidency Magistrate" the words "District Magistrate or" shall be inserted.

Amendment of section 444.

4. In section 444, after the words "Court of Session" the words "except the Sessions Judge" shall be inserted.

Amendment of section 446.

5. (1) In section 446, before the words "Presidency Magistrate" the words "District Magistrate or" shall be inserted.

(2) To the same section the following shall be added, namely :—

"and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both."

Repeal of section 450.

6. Section 450 is hereby repealed.

New section substituted for section 451.

7. For section 451 the following shall be substituted :—

Jury and assessors before High Court or Court of Session.

"451. (1) In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans, or both Europeans and Americans.

"(2) When any such trial before a Court of Session would, in the ordinary course, be with the aid of assessors, the European British subject accused, or, where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1), require that not less than half the number of the assessors shall be Europeans or Americans, or both Europeans and Americans."

New sections to follow section 451.

8. After section 451 the following shall be inserted, namely :—

Right of European British subject to claim jury before District Magistrate.

451A. (1) In trials of European British subjects before a District Magistrate, any such subject may, in a summons-case before he is heard in his defence under section 244, or in a warrant-case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 451.

"(2) If a claim is made under sub-section (1) in a summons-case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warant-case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

"(3) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

"(4) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

"(5) The provisions of sections 211, 216, 217, 219, and 220, shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused, and the witnesses at every trial to be held under this section.

"(6) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

"(7) All Courts may construe any of the provisions referred to in sub-section (5) or sub-section (6), in so far as they are made applicable by that sub-section, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

"(8) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447."

"451B. (1) If an accused person claims to be tried by jury under section 451A, and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 451 cannot be constituted for the trial before himself, or cannot be so constituted without an amount of delay, expense, or inconvenience which, under the circumstances of the case, would be unreasonable, he may, instead of issuing orders for the trial before himself under section 451A, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behalf, and approved by the Local Government, or by special order, direct.

Transfer to another Court in certain cases.

"(2) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall, with all convenient speed, try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under section 451A."

Amendment of section 459.

9. The last sixteen words of section 459 are hereby repealed; and in the same section, after the words "any Magistrate" the words "or any Judge presiding in a Court of Session" shall be inserted.

Amendment of section 462.

10. In section 462, after the figures "460" the following shall be inserted, namely:—"or before the Court of a District Magistrate or Sessions Judge proceeding under section 451A or 451B."

Amendment of section 526.

11. In section 526, after clause (*d*), the following shall be inserted, namely:—

"or

"(*e*) that such an order is expedient for the ends of justice."

(2) In the same section, after clause (3), the following shall be inserted, namely:—

"or

"(4) that an accused person be committed for trial to itself or to a Court of Session."

New section inserted after section 526.

12. After section 526 the following section shall be inserted, namely:—

"526A. If in any criminal case or appeal, before the commencement of the hearing, the public prosecutor, the complainant, or the accused, notifies to the Court before which the case or appeal is pending his intention to make an application under section 526 in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal."

Adjournment on application under section 526.

Addition to section 528.

13. To section 528 the following shall be added, namely:—

"A Magistrate making an order under this section shall record in writing his reason for making the same."

Construction.

14. (1) In this Act, "section" means section of the Code of Criminal Procedure, 1882.

(2) All references to that Code made in enactments heretofore passed or hereafter to be passed shall be read as if made to that Code as amended by this Act.

Short title and commencement.

15. This Act may be called the Criminal Procedure Code Amendment Act, 1884; and it shall come into force on the first day of May, 1884.

ACT NO. IV. OF 1884.

INDIAN EXPLOSIVES.

RECEIVED THE G.-G's ASSENT ON THE 26TH FEBRUARY 1884.

An Act to regulate the manufacture, possession, use, sale, transport, and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, possession, use, sale, transport, and importation of explosives; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Indian Explosives Act, 1884 ; and

Local extent.

(2) It extends to the whole of British India.

Commencement.

2. (1) This Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints :

(2) Provided that any notification or rule may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section 18, sub-section (2), shall not take effect until the Act comes into force.

Repeal of portions of Act XII. of 1875.

3. On and from the day on which this Act comes into force, section seven, clause (*o*), and sections twenty-eight to thirty-four (both inclusive), of the Indian Ports Act, 1875, shall be repealed.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(1) "explosive"—

(*a*) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect ; and

(*b*) includes fog-signals, fireworks, fuzes, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined :

(2) "manufacture" includes the process of dividing into its component parts, or otherwise breaking up or unmaking any explosive, or making fit for use any damaged explosive, and the process of re-making, altering, or repairing any explosive :

(3) "vessel" includes every ship, boat, and other vessel used in navigation, whether propelled by oars or otherwise :

(4) "carriage" includes any carriage, wagon, cart, truck, vehicle, or other means of conveying goods or passengers by land, in whatever manner the same may be propelled :

(5) "master" includes every person (except a pilot or harbour-master) having for the time being command or charge of a vessel : provided that, in reference to any boat belonging to a ship, "master" shall mean the master of the ship :

(6) "import" means to bring into British India by sea or land.

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Power to make rules as to licensing of the manufacture, possession, use, sale, transport, and importation of explosives.

5. (1) The Governor-General in Council may for any part of British India, and each Local Government, with the previous sanction of the Governor-General in Council, may for any part of the territories under its administration, make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by those rules, the manufacture, possession, use, sale, transport, and importation of explosives, or any specified class of explosives.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

(*a*) the authority by which licenses may be granted;

(*b*) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;

(*c*) the manner in which applications for licenses must be made, and the matters to be specified in such applications;

(*d*) the form in which, and the conditions on and subject to which, licenses must be granted;

(*e*) the period for which licenses are to remain in force; and

(*f*) the exemption absolutely or subject to conditions of any explosives from the operation of the rules.

(3) The authority making rules under this section may, by the rules, impose penalties on all persons manufacturing, possessing, using, selling, transporting, or importing explosives in breach of the rules, or otherwise contravening the rules:

Provided that the maximum penalty which may be imposed by any such rules shall not exceed—

(*a*) in the case of a person so importing or manufacturing an explosive, a fine which may extend to three thousand rupees;

(*b*) in the case of a person so possessing, using, or transporting an explosive, a fine which may extend to one thousand rupees;

(*c*) in the case of a person so selling an explosive, a fine which may extend to five hundred rupees; and

(*d*) in any other case, two hundred rupees.

Power for Governor-General in Council to prohibit the manufacture, possession or importation of specially dangerous explosives.

6. (1) Notwithstanding anything in the rules under the last foregoing section, the Governor-General in Council may, from time to time, by notification in the *Gazette of India*,—

(*a*) prohibit, either absolutely or subject to conditions, the manufacture, possession, or importation of any explosive which is of so dangerous a character that, in the opinion of the Governor General in Council, it is expedient for the public safety to issue the notification; and

(*b*) cancel any notification under this section.

(2) The officers of sea customs at every port shall have the same power in respect of any explosive with regard to the importation of which a notification has been issued under this section and the vessel containing the explosive as they have for the time being in respect of any article the importation of which is prohibited or regulated by the law relating to sea customs and the vessel containing the same: and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

(3) Any person manufacturing, possessing, or importing an explosive in contravention of a notification issued under this section, shall be punished with fine which may extend to three thousand rupees, and, in the case of

importation by water, the owner and master of the vessel in which the explosive is imported shall, in the absence of reasonable excuse, each be punished with fine which may extend to three thousand rupees.

Power to make rules conferring powers of inspection, search, seizure, detention, and removal.

7. (1) The Governor-General in Council, or the Local Government with the previous sanction of the Governor-General in Council, may make rules consistent with this Act authorizing any officer, either by name or in virtue of his office—

(*a*) to enter, inspect, and examine any place, carriage, or vessel in which an explosive is being manufactured, possessed, used, sold, transported, or imported under a license granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, transported, or imported in contravention of this Act or of the rules made under this Act;

(*b*) to search for explosives therein;

(*c*) to take samples of any explosive found therein on payment of the value thereof; and

(*d*) to seize, detain, remove, and, if necessary, destroy any explosive found therein.

(2) The provisions of the Code of Criminal Procedure relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorized by rules under this section.

Notice of accidents.

8. Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed, or used, or any carriage or vessel either conveying an explosive, or on or from which an explosive is being loaded or unloaded, any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place, or the master of the vessel, or the person in charge of the carriage, as the case may be, shall forthwith give notice thereof to the officer in charge of the nearest police-station.

Inquiry into accidents.

9. (1) Whenever, in the opinion of a District Magistrate, Sub-divisional Magistrate, or any other Magistrate specially empowered by the Local Government in this behalf, an inquiry is necessary into the cause of any accident of the description mentioned in section 8, he may either himself make the inquiry, or direct a Magistrate subordinate to himself to make the inquiry.

(2) Any Magistrate making an inquiry under this section shall, for the purposes of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure.

(3) The powers conferred on a Magistrate by this section may, in a Presidency-town, be exercised by the Commissioner of Police, as well as by any Magistrate specially empowered in this behalf under sub-section (1).

Forfeiture of explosives.

10. When a person is convicted of an offence punishable under this Act or the rules made under this Act, the Court before which he is convicted may direct that the explosive, or ingredient of the explosive, or the substance (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient, or substance, shall, with the receptacles containing the same, be forfeited.

Distress of vessel.

11. Where the owner or master of a vessel is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that vessel, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the vessel, and the tackle, apparel, and furniture thereof, or so much thereof as is necessary.

Abetment and attempts.

12. Whoever abets, within the meaning of the Indian Penal Code, the commission of an offence punishable under this Act, or the rules made under this Act, or attempts to commit any such offence, and in such attempt does any act towards the commissiom of the same, shall be punished as if he had committed the offence.

Power to arrest without warrant persons committing dangerous offences.

13. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any place where an explosive is manufactured or stored, or any railway or port, or any carriage, ship, or boat, may be apprehended without a warrant by a police-officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that place, or by any agent or servant of, or other person authorized by, the railway administration or conservator of the port, and be removed from the place where he is arrested, and conveyed as soon as conveniently may be before a Magistrate.

Saving for manufacture, possession, use, sale, transport, or importation by Government.

14. Nothing in this Act shall apply to the manufacture, possession, use, sale, transport, or importation of any explosive—

(*a*) by order of the Government, or

(*b*) by any person employed under the Government in the execution of this Act, or as a keeper of a magazine, artizan, soldier, sailor, policeman, or otherwise, or enrolled as a volunteer under the Indian Volunteers Act, 1869, in the course of his employment or duty as such.

Saving of Indian Arms Act, 1878.

15. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878:

Provided that an authority granting a license under this Act for the manufacture, possession, sale, transport, or importation of an explosive, may, if empowered in this behalf by the rules under which the license is granted, direct, by an order written on the license, that it shall have the effect of a like license granted under the said Indian Arms Act.

Saving as to liability under other law.

16. Nothing in this Act or the rules under this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules:

Provided that a person shall not be punished twice for the same offence.

Extension of definition of "explosive" to other explosive substances.

17. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare that any substance which appears to the Governor-General in Council to be specially dangerous to life or property, by reason either of its explosive properties or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act; and the provisions of this Act (subject to

such exceptions, limitations, and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the definition of the term "explosive" in this Act.

Procedure for making, publication, and confirmation of rules.

18. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect if it is made by the Governor-General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made, and, if it requires sanction, that it has been duly sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

ACT NO. V. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 26TH FEBRUARY 1884.

An Act to amend the Chutiá Nágpur Encumbered Estates Act, 1876.

WHEREAS it is expedient to amend the Chutiá Nágpur Encumbered Estates Act, 1876; It is hereby enacted as follows:—

Meaning of "section."

1. "Section" in this Act means a section of the Chutiá Nágpur Encumbered Estates Act, 1876.

Addition to section 2 of Act VI. of 1876.

2. To section 2 the following shall be added, namely:—

"Every application under this section must state—

"(*a*) the particulars of the debts and liabilities as aforesaid to which the said holder is subject, or with which his immoveable property is charged; and

"(*b*) the particulars of the immoveable property of or to which he is then possessed or entitled in his own right, or which he is entitled to redeem.

"Every such application must, except when it is made by a Deputy Commissioner, be verified by the applicant or by some other competent person in the manner required by law for the verification of plaints, and, if it contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, he shall be deemed to have given false evidence within the meaning of the Indian Penal Code."

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Amendment of section 3.

3. In section 3, for the words "on such publication" the words "on the publication of an order under section two" shall be substituted.

Addition to section 4.

4. To section 4 the following shall be added, namely :—

"and also in or towards the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from the Government by the manager under this Act."

Amendment of section 7.

5. In section 7, for the words "nine months" the words "six months" shall be substituted.

Amendment of section 12.

6. (1) In section 12, for the first clause the following shall be substituted :—

"When all the debts and liabilities mentioned in the schedule referred to in section eleven, and the amount of any loan received from the Government under section eighteen, together with the interest (if any) due thereon, have been paid and discharged."

(2) In the same section, for the second clause the following shall be substituted, namely :—

"or if the Commissioner, at any time before a scheme has been approved by him under section eleven, thinks that the provisions of this Act should not continue to apply to the case of the holder of the said property or his heir."

(3) After the second clause of the same section the following shall be inserted, namely :—

"or if at any time an arrangement is made for the satisfaction of the debts and liabilities which is accepted by the creditors and approved by the Commissioner."

Amendment of section 17.

7. In section 17, for the words "not exceeding twenty years absolute" the words "or in perpetuity" shall be substituted.

Amendment of section 18.

8. In section 18—

(*a*) the following words shall be repealed, namely :—"with the previous consent of the holder of the property and of the person (being of full age) who would be his heir if he died intestate."

(*b*) after the words "as may appear expedient" the following shall be inserted, namely :—"or by borrowing money from the Government at such rate of interest as appears reasonable to the Local Government"; and

(*c*) for the last clause the following shall be substituted, namely :—"The powers conferred by this section shall not be exercised until a scheme has been approved by the Commissioner under section eleven."

Addition to section 19.

9. In section 19, after clause (*a*), the following shall be inserted, namely :—

"(*aa*) the classes of cases which may be submitted by the Commissioner for the consent of the Lieutenant-Governor under section two."

Repeal of Act XII. of 1877.

10. Act XII. of 1877 (*an Act to amend the Chutiá Nágpur Encumbered Estates Act, 1876*) is hereby repealed.

ACT NO. VI. OF 1884.

INLAND STEAM VESSELS.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH FEBRUARY 1884.

An Act to amend the law relating to the Survey, and the Examination and Grant of Certificates to Engineers, of Inland Steam-vessels, and to provide for certain other matters relating to those vessels.

WHEREAS it is expedient to amend the law relating to the survey of inland steam-vessels and the examination and grant of certificates to engineers of those vessels;

And whereas it is also expedient to provide for the grant of certificates to the masters of inland steam-vessels, and for investigations into casualties affecting, and into charges against masters and engineers of, those vessels, and for the protection of passengers and goods carried thereon from danger by fire, and for the regulation of the carriage of passengers therein;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (1) This Act may be called the Inland Steam-vessels Act, 1884.

(2) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort St. George in Council.

(3) But the Governor of Fort St. George in Council may, at any time, by notification in the local official Gazette, extend this Act or any part thereof to the whole or any part of the territories under his administration.

Commencement.

2. (1) This Act shall come into force in the whole of British India, except the territories administered by the Governor of Fort St. George in Council, on such day as the Governor-General in Council, by notification in the *Gazette of India*, directs.

(2) If the Governor of Fort St. George in Council extends this Act or any part thereof to the whole or any part of the territories under his administration, the Act or part so extended shall come into force in the local area to which it is so extended on such day as the Governor in Council, by the notification extending the Act or part, directs.

(3) Provided that any notification, rule, or appointment may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section sixty-nine, sub-section (2), shall not take effect until the Act or part thereof, under which the notification, rule, or appointment is made, comes into force.

Repeal of enactments.

3. (1) On and from the day on which this Act comes into force, elsewhere than in the territories administered by the Governor of Fort St. George in Council, the Acts mentioned in the first column of the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof.

(2) But all proceedings commenced, investigations held, and certificates granted, cancelled, or suspended under any of the said Acts, shall be deemed

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to have been respectively commenced, held, granted, cancelled, or suspended under this Act or under the Indian Steam-ships Act, 1884, as the case may be.

(3) For the purposes of the last foregoing sub-section, a certificate granted to the commander of an inland steam-vessel under Bengal Act VII. of 1879 (*to provide for the proper management of certain inland steam-vessels*) shall be deemed to be a first-class master's certificate granted under this Act: and an engineer's certificate, whether of competency or service, granted under any other of the Acts repealed by this Act, shall be deemed to be an engineer's certificate granted under this Act or a first-class engineer's certificate granted under the Indian Steam-ships Act, 1884, as the case may be.

Reference to repealed Acts in other Acts, Regulations, and notifications.

4. When in any Act, Regulation, or notification, passed or issued before this Act comes into force, reference is made to any Act repealed by this Act, the reference shall, so far as may be practicable, be read as applying to this Act or the Indian Steam-ships Act, 1884, or the corresponding part of this Act or that Act, as the case may be.

Definitions.

5. In this Act, unless there is something repugnant in the subject or context,—

(1) "vessel" includes anything made for the conveyance by water of human beings or of property:

(2) "steam-vessel" means every description of vessel propelled wholly or in part by the agency of steam:

(3) "inland water" means any canal, river, navigable lake or water in British India:

(4) "inland steam-vessel" means a steam-vessel which ordinarily plies on inland water:

(5) "voyage" includes also the plying of a vessel at or about any place;

(6) "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a vessel:

(7) "passenger" includes any person carried in a steam-vessel other than the master and crew and the owner, his family and servants: and

(8) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS.

Inland steam-vessel not to proceed on voyage without a certificate of survey.

6. (1) An inland steam-vessel shall not proceed on any voyage unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(2) Nothing in this section shall apply to any steam-vessel proceeding on a voyage during the interval between the time at which her certificate under this Act expires and the time at which it is first practicable to have the certificate renewed.

Appointment of surveyors and places of survey.

7. (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such places within the territories under its administration as it, from time to time, appoints to be places of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

Powers of surveyors.

8. (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, and the machinery, equipments, or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master, and officers of the steam-vessel, shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

Declaration of surveyor.

9. When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-vessel surveyed a declaration in the prescribed form containing the following particulars, namely:—

(*a*) that the hull and machinery of the steam-vessel are sufficient for the service intended and in good condition;

(*b*) that the equipments of the steam-vessel and the certificates of the master and engineer or engine-driver are such and in such condition as are required by any law for the time being in force and applicable to the steam-vessel;

(*c*) the time (if less than one year) for which the hull, machinery, and equipments of the steam-vessel will be sufficient;

(*d*) the limit (if any) beyond which, as regards the hull, machinery, or equipments, the steam-vessel is in the surveyor's judgment not fit to ply;

(*e*) the number of passengers (if any) which the steam-vessel is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires; and

(*f*) any other prescribed particulars.

Sending of declaration by owner or master to Local Government.

10. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate

Grant of certificate of survey by Local Government.

11. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be

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prepared and delivered, through such officer at the place at which the steam-vessel was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-vessel surveyed, on his applying and paying the fees and other sums (if any) in this Act mentioned as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in such form as the Governor-General in Council, from time to time, directs; shall contain a statement to the effect that the provisions of this Act with respect to the survey of the steam-vessel and the transmission of the declaration in respect thereof have been complied with; and shall set forth—

(*a*) the particulars concerning the steam-vessel which clauses (*c*), (*d*), and (*e*) of section nine, require the declaration by the surveyor to contain, and

(*b*) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-vessel to which the certificate relates.

Fees for certificates of survey.

12. For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-vessel surveyed shall pay to the officer through whom the certificate is delivered to him—

(*a*) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed, or according to any other prescribed rates; and

(*b*) when the survey is made in any place of survey other than Calcutta, Madras, Bombay, or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the place, as the Local Government, from time to time, by notification in the official Gazette, directs.

Certificate of survey to be affixed in conspicuous part of steam-vessel.

13. The owner or master of every steam-vessel for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as it remains in force and the steam-vessel is in use, on some conspicuous part of the steam-vessel where it may be easily read by all persons on board thereof.

Term of certificates of survey.

14. A certificate of survey granted under this Act shall not be in force—

(*a*) after the expiration of one year from the date thereof; or

(*b*) after the expiration of the period, if less than one year, for which the hull, boilers, engines, or any of the equipments, have been stated in the certificate to be sufficient; or

(*c*) after notice has been given by the Local Government, to the owner or master of the steam-vessel to which the certificate relates, that the Local Government has cancelled or suspended it.

Cancellation or suspension of certificate of survey by Local Government.

15. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

(*a*) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines, or any of the equipments of the steam vessel, has been fraudulently or erroneously made; or

(*b*) that the certificate has otherwise been granted upon false or erroneous information; or

(*c*) that, since the making of the declaration, the hull, boilers, engines, or any of the equipments of the steam-vessel, have sustained any injury, or have otherwise become insufficient.

Power to require delivery of expired or cancelled certificate.

16. The Local Government may require any certificate of survey which has expired or has been cancelled or suspended to be delivered up to such person as it, from time to time, directs.

Report of cancellation or suspension of certain certificates.

17. If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

Power for Local Government to direct that two surveyors be employed.

18. A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-vessels at any place of survey, or specially in the case of any particular steam-vessel or class of steam-vessels at any such place.

Power for Local Government to order a second survey.

19. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration under section nine with regard to any steam-vessel, or gives or give a declaration with which the owner or master of the steam-vessel surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-vessel.

(2) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a declaration, or give such declaration as under the circumstances seems to them proper; and their decision shall be final.

Division of duties when two surveyors employed.

20. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey.

Power for Local Government to make rules as to surveys.

21. (1) The Local Government may make rules to regulate the making of surveys under this Act.

(2) Rules under this section may, among other matters,—

(*a*) declare the times and places at which, and the manner in which, surveys are to be made;

(*b*) regulate the duties of the surveyor making a survey, and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;

(*c*) declare the form in which the declarations of surveyors and certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein, respectively;

(*d*) fix the rates according to which the fees payable for certificates of survey are to be calculated in the case of all or any of the places of survey within the territories under its administration; and

(*e*) define the cases in, and the extent to, which under ordinary circumstances a survey may be dispensed with before the grant of a new certificate.

CHAPTER III.

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS.

Appointment of examiners.

22. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or as engineers or engine-drivers of inland steam-vessels.

Grant of masters' certificates of competency.

23. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class master or as a second-class master of an inland steam-vessel, as the case may be.

(2) Every certificate granted under this section shall be in the prescribed form.

Grant of engineers' and engine-drivers' certificates of competency.

24. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as an engineer or as an engine-driver of an inland steam-vessel, as the case may be.

(2) Every certificate granted under this section shall be in the prescribed form.

Power for Local Government to require re-examination or further inquiry.

25. Before granting a certificate under either of the last two foregoing sections, the Local Government may, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, require a re-examination of the applicant or a further inquiry into his testimonials and character.

Certificates to be made in duplicate.

26. Every certificate of competency granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

Copy of certificate to be granted in certain cases.

27. Whenever a master or an engineer or an enigne-driver proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled, shall be granted to him, and shall have all the effect of the original.

Number of engineers and nature of certificates necessary in case of different steam-vessels.

28. (1) An inland steam-vessel having engines of eighty nominal horse power or upwards shall not proceed on any voyage unless she has—

(*a*) as her master a person possessing a first-class master's certificate granted under this Act or a master's certificate granted under Act I. of 1859 (*for the amendment of the law relating to Merchant Seamen*) or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869 ; and

(*b*) as her engineer a person possessing an engineer's certificate granted under this Act or the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

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(2) An inland steam-vessel having engines of under eighty nominal horse-power shall not proceed on any voyage unless she has-

(*a*) as her master a person possessing a second-class master's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (*a*) of sub-section (1), and

(*b*) as her engineer a person possessing an engine-driver's certificate granted under this Act or the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (*b*) of sub-section (1):

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and an engine-driver's certificate granted under this Act.

Power for Local Government to make rules as to grant of certificates of competency.

29. The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

(*a*) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, engineers, or engine-drivers under this Act;

(*b*) prescribe the qualifications to be respectively, required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, engineers' certificates, and engine-drivers' certificates, respectively;

(*c*) fix the fees to be paid by all applicants for examination; and

(*d*) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

Report of casualties to be made to Local Government.

30. (1) Whenever—

(*a*) any inland steam-vessel has been wrecked, abandoned, or materially damaged, or

(*b*) by reason of any casualty happening to or on board of any inland steam-vessel, loss of life has ensued, or

(*c*) any inland steam-vessel has caused loss or material damage to any other vessel,

the master of the steam-vessel shall forthwith give notice of the wreck, abandonment, damage, casualty, or loss to the officer in charge of the nearest police-station.

Power for Local Government to appoint special Court of Investigation.

31. (1) If in any case a formal investigation into the facts referred to in the last foregoing section appears to the Local Government to be requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate; another shall be some person conversant with maritime affairs or the navigation of inland steam-vessels; and the other or others (if any) shall be conversant with either maritime or mercantile affairs or with the navigation of inland steam-vessels.

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Power for principal Court of ordinary criminal jurisdiction to hold investigations into casualties when so directed.

32. Any principal Court of ordinary criminal jurisdiction and the Court of any District Magistrate may, when so directed by the Local Government, make the investigation referred to in the last foregoing section.

Power for Court of Investigation to inquire into charges against masters, engineers, and engine-drivers.

33. (1) Any Court making an investigation under either of the last two foregoing sections may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer, or engine-driver, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty, or loss referred to in section thirty.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master, engineer, or engine-driver in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Local Government to direct investigation into charges of incompetency or misconduct.

34. (1) If the Local Government has reason to believe that there are grounds for charging any master, engineer, or engine-driver of an inland steam-vessel with incompetency or misconduct, otherwise than in the course of an investigation under section thirty-one or section thirty-two, it may send a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

(2) Before commencing the investigation, the Court shall cause the master or engineer or engine-driver so charged to be furnished with a copy of the statement sent by the Local Government.

Person accused to be heard.

35. For the purpose of an investigation under this chapter into any charge against a master, engineer, or engine-driver, the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise.

Assessors.

36. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, engineer, or engine-driver, the Court making the investigation shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor.

(2) Every person appointed under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act shall rest with the Court.

Power of Court as to evidence and regulation of proceedings.

37. For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

(a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(b) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exercisable respectively by either Court in the exercise of its criminal jurisdiction.

Power to arrest witnesses and cause entry and detention of vessels.

38. (1) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code.

(3) No person shall be detained by virtue of this section for more than forty eight hours.

Power to commit for trial and bind over witnesses.

39. (1) Whenever, in the course of any investigation, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

(2) For the purposes of this section the Recorder of Rangoon shall, within the local limits of the territories for the time being administered by the Chief Commissioner of British Burma, be deemed to be the High Court.

Depositions.

40. (1) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

(a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(b) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused, and that he had that opportunity, shall, unless the contrary be proved, be sufficient evidence that it was so made, and that he had that opportunity.

Report by Court to Local Government.

41. The Court shall, in the case of every investigation under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

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42. (1) Whenever any explosion occurs on board any inland steam-vessel, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

Power to investigate causes of explosions on board inland steam-vessels.

(2) The person or persons so directed may enter into and upon the steam-vessel with all necessary workmen and labourers, and remove any portion of the steam-vessel, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what in his or their opinion was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

CHAPTER V.

SUSPENSION AND CANCELLATION OF MASTERS' AND ENGINEERS' CERTIFICATES.

43. Any certificate granted under this Act to any master, engineer, or engine-driver, may be suspended or cancelled by the Local Government which granted it, or by any other Local Government, in the following cases, that is to say :—

Power for Local Government to suspend or cancel certificates in certain cases.

(*a*) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any inland steam-vessel, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny, or other misconduct ; or

(*b*) if he is proved to have been convicted of any non-bailable offence ; or

(*c*) if, in the case of a second-class master or an engine-driver, the master or engine-driver is or has become, in the opinion of the Local Government, unfit to act as a second-class master or engine-driver :

Provided that, in any case in which an investigation has been made into a charge against any master, engineer, or engine-driver, a certificate shall not be suspended or cancelled under clause (*a*) of this section unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section thirty-three or section thirty-four, as the case may be.

44. Every master, engineer, or engine-driver whose certificate is cancelled or suspended under the last foregoing section, shall deliver it to such person as the Local Government which cancelled or suspended it from time to time directs.

Obligation to deliver up cancelled or suspended certificate.

45. If the Local Government which cancels or suspends a certificate under section forty-three is not the Local Government which granted the certificate, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

Report to other Local Governments.

Power to revoke cancellation or suspension, and to grant new certificate.

46. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section forty-three, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

(2) A certificate so granted shall have the same effect as if it had been granted after examination.

CHAPTER VI.

PROTECTION OF INLAND STEAM-VESSELS FROM DANGER BY FIRE.

Power for Governor-General in Council to declare dangerous goods.

47. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare what shall be deemed to be, for the purposes of this Act, dangerous goods.

Carriage of dangerous goods.

48. (1) A person shall not take with him on board an inland steam-vessel, and a person shall not deliver or tender for carriage on an inland steam-vessel, any dangerous goods without giving notice of their nature to the owner or master of the steam-vessel, or, in the case of goods delivered or tendered for carriage, without distinctly marking their nature on the outside of the package containing the goods.

(2) The owner or master of an inland steam-vessel may refuse to carry upon an inland steam-vessel any luggage or parcel which he suspects to contain dangerous goods, and may require the luggage or parcel to be opened to ascertain the fact previously to carrying the same; and, in case any such luggage or parcel is received for the purpose of being carried in any inland steam-vessel, the owner or master of the vessel may stop the transit thereof until he is satisfied as to the nature of its contents.

Power to throw over-board dangerous goods.

49. Where any dangerous goods have been sent or brought on board any inland steam-vessel in contravention of the last foregoing section, the owner or master of the steam-vessel may, if he thinks fit, cause the goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the owner nor the master shall, in respect of his having so thrown the goods overboard, be subject to any liability, civil or criminal, in any Court.

Power for Local Government to makes rules for protection of inland steam-vessels from danger by explosion or fire.

50. (1) The Local Government may make rules for the protection of inland steam-vessels from danger by explosion or fire.

(2) Rules under this section may provide for the following among other matters, that is to say :—

(*a*) the conditions on, and subject to, which dangerous goods may be carried on board inland steam-vessels;

(*b*) the precautions to be taken to prevent explosions or fires on board inland steam-vessels; and

(*c*) the apparatus for the purpose of extinguishing fires which is to be kept on board inland steam-vessels.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

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CHAPTER VII.

Carriage of Passengers in Inland Steam-vessels.

Power for Local Government to make rules for the regulation of the carriage of passengers in inland steam-vessels.

51. (1) The Local Government may make rules to regulate the carriage of passengers in inland steam-vessels.

(2) Rules under this section may provide for the following among other matters, that is to say :—

(*a*) the cases in which passengers may be refused admission to, or may be required to leave, inland steam-vessels;

(*b*) the payment of fares and the exhibition of tickets or receipts (if any) showing the payment of their fares by passengers in inland steam-vessels; and

(*c*) the regulation generally of the conduct of passengers in inland steam-vessels.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with fine which may extend to twenty rupees.

(4) The master or any other officer of an inland steam-vessel, and any person called by him to his assistance, may arrest any person who has committed a breach of any rule made under this section, and whose name and address are unknown to the master or other officer.

(5) The procedure prescribed by section 59 of the Code of Criminal Procedure in the case of arrest by private persons shall apply to every arrest under this section.

CHAPTER VIII.

Penalties and Legal Proceedings.

Penalty for inland steam-vessel making a voyage without certificate of survey.

52. (1) If any inland steam-vessel proceeds on a voyage in contravention of section six, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one thousand rupees.

(2) If the master or any other officer on board of an inland steam-vessel which proceeds on a voyage in contravention of section six is a licensed pilot, he shall be liable to have his license as a pilot cancelled, or suspended for any period, by the Local Government, as the Local Government sees fit to order.

Penalty for neglect to affix certificate of survey in inland steam-vessel.

53. If the certificate of survey granted under this Act is not kept affixed in an inland steam-vessel in the manner provided by this Act, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one hundred rupees.

Penalty for neglect or refusal to deliver up certificate of survey.

54. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate of survey when required under this Act to do so, he shall be punished with fine which may extend to one hundred rupees.

Penalty for serving, or engaging a person to serve, as master, engineer, or engine-driver without certificate

55. (*a*) If any person who has been engaged to serve as master, engineer, or engine-driver of an inland steam-vessel, proceeds on any voyage in that steam-vessel as master, engineer, or engine-driver, as the case may be, without being at the time entitled to, and possessed of, the certificate required under this Act, and

(*b*) if any person employs any person as a master, engineer, or engine-driver of an inland steam-vessel without ascertaining that he is at the time entitled to, and possessed of, the master's, engineer's, or engine-driver's certificate, as the case may be, required under this Act,

he shall be punished with fine which may extend to five hundred rupees.

Penalty for master failing to give notice of wreck or casualty.

56. If any master wilfully fails to give notice, as required by section thirty, of any wreck, abandonment, damage, casualty, or loss, he shall be punished with fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

Penalty for master, engineer, or engine-driver failing to deliver up cancelled or suspended certificate.

57. If any master, engineer, or engine-driver whose certificate is cancelled or suspended under this Act, fails to deliver the certificate to such person as the Local Government which cancelled or suspended it directs, he shall be punished with fine which may extend to five hundred rupees.

Penalty for taking dangerous goods on board inland steam-vessels without notice.

58. If any person, in contravention of section forty eight, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for the purpose of being carried on any inland steam-vessel, he shall be punished with fine which may extend to two hundred rupees, and the goods shall be forfeited to Her Majesty.

Penalty for misconduct endangering inland steam-vessel or life or limb.

59. If any person employed or engaged in any capacity on board an inland steam-vessel by wilful breach of duty, or by neglect of duty, or by reason of drunkenness—

(*a*) does any act tending to the immediate wreck, destruction, or material damage of the vessel, or tending immediately to endanger the life or limb of any person belonging to or on board the vessel, or

(*b*) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction, or material damage, or for preserving any person belonging to or on board of the vessel from immediate danger to life or limb,

he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

Distress of inland steam-vessel.

60. Where the owner or master of an inland steam-vessel is convicted of an offence under this Act or the rules made under this Act committed on board of, or in relation to, that steam-vessel, and sentenced to pay a fine, the Magistrate may, in addition to any other power he may have for the purpose of compelling payment of the fine, direct the amount thereof to be levied by distress and sale of the vessel and the tackle, apparel, and furniture thereof, or so much thereof as is necessary.

Jurisdiction of Magistrates.

61. Except in the case of offences under rules made under section fifty-one, no Magistrate shall try an offence under this Act, or the rules under it, unless he is a Presidency Magistrate, or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Place of trial.

62. If any person commits an offence against this Act or the rules made under this Act, he shall be triable for the offence in any place in which he may be found or

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which the Local Government, from time to time, by notification in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Saving of prosecutions under other Acts.

63. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under this Act, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under this Act:

Provided that a person shall not be punished twice for the same offence.

CHAPTER IX.

SUPPLEMENTAL.

Power for Local Government to exempt certain inland steam-vessels from Chapters II. and III.

64. The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, declare that all or any of the provisions of Chapters II. and III. of this Act shall not apply in the case of any specified class of steam-vessels, or shall apply to them with such modifications as the Local Government prescribes.

Power for Local Government to define tidal water.

65. The Local Government may, from time to time, by notification in the official Gazette, define how much of any tidal water shall be deemed to be an inland water for the purposes of this Act.

Fees recoverable as fines.

66. All fees payable under this Act may be recovered as fines under this Act.

Exemption of Government vessels.

76. Nothing in this Act or in any rule made under this Act shall apply to any steam-vessel belonging to, or in the service of, Her Majesty or the Government of India.

Certificated masters of inland steam-vessels to be deemed pilots under Act XII. of 1875.

68. Every master of an inland steam-vessel who possesses a master's certificate duly granted under this Act and then in force shall, in ports to which section 38 of the Indian Ports Act, 1875, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge.

(2) Nothing in this section shall be deemed to affect the provisions of Bombay Act I. of 1863, which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the River Indus to pay fees for pilotage.

Procedure for making, publication, and confirmation of rules.

69. (1) A Local Government making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor-General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE FIRST SCHEDULE.

Acts Repealed.

(*See section 3.*)

(*a*) *Act of the Governor-General in Council.*

Number and year.	Subject or short title.	Extent of repeal.
XVI. of 1871 ...	The Burmese Steamer Survey Act ...	The whole.

(*b*) *Acts of the Governor of Bombay in Council.*

Number and year.	Subject or short title.	Extent of repeal.
II. of 1864 ...	To provide for the periodical survey of steam-vessels in the ports, harbours, rivers, or waters of the presidency of Bombay.	The whole, except section 15.
IV. of 1873 ...	To amend Bombay Act II. of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels.	The whole.

(*c*) *Acts of the Lieutenant-Governor of Bengal in Council.*

Number and year.	Subject or short title.	Extent of repeal.
V. of 1862 ...	To provide for the periodical survey of steam-vessels in the port of Calcutta.	The whole.
I. of 1868 ...	The Steam-boat Survey Amendment Act, 1868.	So much as has not been repealed.
III. of 1871 ...	The increase the fees for the survey of steam-vessels.	The whole.
VII. of 1879 ...	To provide for the proper management of certain inland steam-vessels.	The whole.

1884.

Act 7.

THE SECOND SCHEDULE.

(See section 12.)

*RATES OF FEES.

For steam-vessels of			Tons.	Rs.
For steam-vessels of	less than		100	25
"	"	100 tons and up to	200	40
"	"	200 " " "	350	50
"	"	350 " " "	700	60
"	"	700 " " "	1,000	80
"	"	1,000 " " "	1,500	100
"	"	1,500 " and upwards	......	120

ACT NO. VII. OF 1884.

INDIAN STEAM-SHIPS.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH FEBRUARY 1884.

An Act to amend the law relating to the Survey of Steam-ships and the Grant of Certificates to Engineers of those Ships.

WHEREAS it is expedient to amend the law relating to the survey of steam-ships and the grant of certificates to engineers of those ships; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be called the Indian Steam-ships Act, 1884; and

Extent.

(2) It extends to the whole of British India.

Commencement.

2. (1) This Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints :

(2) Provided that any notification, rule, or appointment, may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section forty-two, sub-section (2), shall not take effect until the Act comes into force.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam :

(2) "British steam-ship" includes a steam-ship registered under Act XIX. of 1838, Act X. of 1841, or Act XI. of 1850, or under any other law passed by the Governor-General in Council and for the time being in force for the registration of ships in India :

(3) "master" means any person (except a pilot or harbour-master) having for the time being control or charge of a steam-ship:

(4) "passenger" includes any person carried in a steam-ship other than the master and crew and the owner, his family and servants: and

(5) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II.

SURVEY OF STEAM-SHIPS.

Steam-ship not to carry passengers without a certificate of survey.

4. A steam-ship shall not carry more than twelve passengers between places in British India, and

a British steam-ship shall not carry more than twelve passengers to or from any place in British India from or to any place out of British India,

unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

Exception of certain steam-ships.

5. Nothing in the last foregoing section shall apply to—

(*a*) any steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed, or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient; or

(*b*) any steam-ship having a certificate of survey granted under the Inland Steam-vessels Act, 1884, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed; or

(*c*) any steam-ship belonging to, or in the service of, Her Majesty or the Government of India; or

(*d*) any steam-ship belonging to any foreign Prince or State when employed mainly on the public service of the Prince or State; or

(*e*) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Act expires and the time at which it is first practicable to have the certificate renewed.

Penalty for carrying passengers without certificate of survey.

6. (1) If any steam-ship carries or attempts to carry passengers in contravention of section four, the owner and master of the steam-ship shall each be liable to a fine which may extend to one thousand rupees.

(2) If the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section four is a licensed pilot, he shall be liable to have his license as a pilot cancelled or suspended for any period by the Local Goverment, as the Local Government sees fit to order.

No port-clearance until certificate of survey produced.

7. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by section four, until after the production by the owner or master thereof of a certificate under this Act in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

1884.

Act 7.

Power to detain steam-ship not having certificate of survey.

8. If any steam-ship for which a certificate of survey is required by section four leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

Appointment of surveyors and ports of survey.

9. (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such ports within the territories under its administration as it, from time to time, appoints to be ports of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

Powers of surveyor.

10. (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and every part thereof, and the machinery, equipments, or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master, and officers of the steam-ship, shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

Declaration of surveyor.

11. When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration in the prescribed form containing the following particulars, namely:—

(*a*) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition;

(*b*) that the equipments of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship;

(*c*) the time (if less than one year) for which the hull, machinery, and equipments of the steam-ship will be sufficient;

(*d*) the limit (if any) beyond which, as regards the hull, machinery, or equipments, the steam-ship is, in the surveyor's judgment, not fit to ply;

(*e*) the number of passengers which the steam-ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires; and

(*f*) any other prescribed particulars.

12. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf.

Sending of declaration by owner or master to Local Government.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate.

13. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the fees and other sums (if any) mentioned in this Act as payable on delivery of a certificate.

Grant of certificate of survey by Local Government.

(2) A certificate granted under this section shall be in such form as the Governor-General in Council, from time to time, directs; shall contain a statement to the effect that the provisions of this Act with respect to the survey of the steam-ship and the transmission of the declaration in respect thereof have been complied with; and shall set forth—

(*a*) the particulars concerning the steam-ship which clauses (*c*), (*d*), and (*e*) of section eleven, require the declaration by the surveyor to contain; and

(*b*) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

14. For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-ship surveyed shall pay to the officer through whom the certificate is delivered to him—

Fees for certificates of survey.

(*a*) a fee calculated on the tonnage of the steam-ship according to the rates in the schedule hereto annexed or according to any other prescribed rates; and

(*b*) when the survey is made in any port of survey other than Calcutta, Madras, Bombay, or Rangoon, such additional fee, in respect of the expense, if any, of the journey of the surveyor to the port, as the Local Government, from time to time, by notification in the official Gazette, directs.

15. (1) The owner or master of every steam-ship for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

Certificate of survey to be affixed in conspicuous part of steam-ship.

(2) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees.

1884.
Act 7.

Term of certificates of survey.

16. A certificate of survey granted under this Act shall not be in force—

(*a*) after the expiration of one year from the date thereof; or

(*b*) after the expiration of the period, if less than one year, for which the hull, boilers, engines, or any of the equipments, have been stated in the certificate to be sufficient; or

(*c*) after notice has been given, by the Local Government, to the owner or master of the steam-ship to which the certificate relates, that the Local Government has cancelled or suspended it.

Cancellation or suspension of certificate of survey by Local Government.

17. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

(*a*) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines, or any of the equipments of the steam-ship, has been fraudulently or erroneously made; or

(*b*) that the certificate has otherwise been issued upon false or erroneous information; or

(*c*) that, since the making of the declaration, the hull, boilers, engines, or any of the equipments of the steam-ship, have sustained any injury, or have otherwise become insufficient.

Power to require delivery of expired or cancelled certificates of survey.

18. (1) The Local Government may require any certificate of survey granted under this Act which has expired, or has been cancelled or suspended, to be delivered up to such person as it, from time to time, directs.

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate as required under this section, he shall be punished with fine which may extend to one hundred rupees.

Report of cancellation or suspension of certain certificates.

19. If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

Power for Local Government to direct that two surveyors be employed.

20. A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

Power for Local Government to order a second survey.

21. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration under section eleven with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-ship.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration, or give such declaration as under the circumstances seems to them proper; and their decision shall be final.

Division of duties when two surveyors employed.

22. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey.

Survey of foreign steam-ships.

23. When a foreign steam-ship requires to be furnished with a certificate of survey under this Act, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Act:

Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by Order in Council directed that section 19 of the Merchant Shipping Act, 1876, shall not apply.

Power for Local Government to make rules as to surveys.

24. (1) The Local Government may make rules to regulate the making of surveys under this Act.

(2) Rules under this section may, among other matters,—

(*a*) declare the times and places at which, and the manner in which, surveys are to be made;

(*b*) regulate the duties of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;

(*c*) declare the form in which the declarations of surveyors and certificates of survey under this Act are to be framed, and the nature of the particulars which are to be stated therein, respectively; and

(*d*) fix the rates according to which the fees payable for certificates of survey are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

Power for Local Government to exempt certain steam-ships.

25. The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, declare that all or any of the provisions of this chapter shall not apply in the case of any specified class of steam-ships, or shall apply to them with such modifications as the Local Government prescribes.

CHAPTER III.

EXAMINATION AND CERTIFICATES OF ENGINEERS AND ENGINE-DRIVERS.

Appointment of examiners.

26. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as engineers or engine-drivers.

Grant of engineers' and engine-drivers' certificates of competency.

27. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class engineer, or as a second-class engineer, or as an engine-driver, as the case may be:

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Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

(2) Every certificate granted under this section shall be in the prescribed form.

Power for Local Government to cancel engine-drivers' certificates.

28. Notwithstanding anything contained in the Indian Merchant Shipping Act, 1883, or any other law for the time being in force, the Local Government may at any time, without any formal investigation, suspend or cancel any engine-driver's certificate granted by it under this Act, if in its opinion the holder is, or has become, unfit to act as an engine-driver.

Certificates to be made in duplicate.

29. Every certificate of competency granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

Copy of certificate to be granted in certain cases.

30. Whenever an engineer or engine-driver proves to the satisfaction of the Local Government which granted his certificate that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled, shall be granted to him, and shall have all the effect of the original.

Steam-ships required to carry first-class and second-class engineers.

31. (1) A British steam-ship shall not proceed from any port in British India to any port or place not being either in British India, or on the continent of India, or in the Island of Ceylon, unless she has,—

(*a*) if the steam-ship has engines of one hundred nominal horse-power or upwards, as her first and second engineers two certificated engineers, the first possessing a first-class engineer's certificate and the second a second-class engineer's certificate or a certificate of the higher grade, granted under this Act or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869;

(*b*) if the steam-ship has engines of under one hundred nominal horse-power, as her only or first engineer an engineer possessing a second class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (*a*).

(2) A foreign steam-ship having engines of fifty nominal horse-power or upwards shall not carry passengers from any port in British India to any other port in British India, and a British steam-ship having engines of a like horse power shall not proceed from any port in British India to any other port in British India or to any port or place on the continent of India or in the Insland of Ceylon, unless she has as her only or first engineer an engineer possessing a second-class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (*a*) of sub-section (1).

Power for Local Government to require certain steam-ships to carry engine-drivers.

32. (1) On and from such day as the Local Government, by notification in the official Gazette, directs in this behalf, a foreign steam-ship having engines of under fifty nominal horse-power shall not carry passengers from any port within the territories administered by that Local Government to any other port in British India, and a British steam-ship having engines of a like horse-power shall not proceed from any port within those territories

to any other port in British India or to any port or place on the continent of India or in the Island of Ceylon, unless she has as her engineer a person possessing an engine-driver's certificate granted under this Act, or an engineer's certificate of either of the grades referred to in the last foregoing section.

(2) The Local Government may at any time, by a like notification, cancel any notification issued by it under this section.

Exemption of inland steam-vessels.

33. Nothing in section thirty-one or section thirty-two shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1884, are applicable.

Penalty for serving, or engaging a person to serve, as engineer or engine-driver without a certificate.

34. (*a*) If any person who has been engaged to serve in any of the capacities referred to in section thirty-one or section thirty-two in any steam-ship to which those sections apply, respectively, proceeds in the steam-ship in that capacity without being at the time entitled to, and possessed of, the certificate required by those sections, and

(*b*) if any person employs any person in any capacity referred to in section thirty-one or section thirty-two in any steam-ship to which those sections apply, respectively, without ascertaining that he is at the time entitled to, and possessed of, the certificate required by those sections,

he shall be punished with fine which may extend to five hundred rupees.

Production of certificates.

35. The provisions of Act I. of 1859 (*for the amendment of the law relating to Merchant Seamen*) with respect to the certificates of competency or service of the master and mate contained in section 31 and section 32 of that Act shall apply to certificates of competency granted under this Act in the same manner as if certificates of competency granted to engineers under this Act were specially mentioned and included in those sections.

Power for Local Government to make rules as to grant of certificates of competency.

36. The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

(*a*) provide for the conduct of the examinations of the persons desirous of obtaining certificates of competency as engineers or engine-drivers under this Act;

(*b*) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class engineers' certificates, second-class engineers' certificates, and engine-drivers' certificates, respectively;

(*c*) fix the fees to be paid by all applicants for examination; and

(*d*) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER IV.

INVESTIGATIONS INTO EXPLOSIONS.

Power to investigate causes of explosions on board steam-ships.

37. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

1884.
Act 7.

(2) The person or persons so directed may enter into and on the steam-ship, with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

CHAPTER V.

SUPPLEMENTAL.

Jurisdiction of Magistrate.

38. No Magistrate shall try any offence under this Act unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Place of trial.

39. If any person commits an offence against this Act, he shall be triable for the offence in any place in which he may be found, or which the Local Government, from time to time, by notification in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Distress of steam-ship.

40. Where the owner or master of a steam-ship is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that steam-ship, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct that it be levied by distress and sale of the steam-ship, and the tackle, apparel, and furniture thereof, or so much thereof as is necessary.

Amendment of section 13 of Act VIII. of 1876.

41. In section 13, clause (*b*), of the Native Passenger Ships Act, 1876, for the words "six months" the words "one year" shall be substituted; and after the word "sailing" the words "in force and applicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed" shall be added.

Procedure for making, publication, and confirmation of rules.

42. (1) A Local Government making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor-General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE SCHEDULE.

(See section 14.)

RATES OF FEES.

	Tons.	Rs.
For steam-ships of less than	200	40
" " 200 tons and up to	350	50
" " 350 " " "	700	60
" " 700 " " "	1,000	80
" " 1,000 " " "	1,500	100
" " 1,500 " and upwards	...	120

ACT NO. VIII. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 2ND MAY 1884.

An Act to repeal Bengal Regulation XIX. of 1810 within the territories administered by the Lieutenant-Governor of the North-Western Provinces.

WHEREAS the provisions of Bengal Regulation XIX. of 1810 (*for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples, colleges, and other purposes ; for the maintenance and repair of bridges, saráis, kattras, and other public buildings ; and for the custody and disposal of nazúl property or escheats*), are, in so far as they are still in force within the territories administered by the Lieutenant-Governor of the North-Western Provinces, either obsolete or unnecessary, and it is therefore expedient entirely to repeal the Regulation within those territories ; It is hereby enacted as follows :—

Repeal of Bengal Regulation XIX. of 1810 in the North-Western Provinces.

1. Bengal Regulation XIX. of 1810 is hereby repealed within the territories administered by the Lieutenant-Governor of the North-Western Provinces.

1884.

Act 9.

ACT NO. IX. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH MAY 1884.

An Act to amend the Legal Practitioners' Act, 1879, and the Indian Stamp Act, 1879.

WHEREAS it is expedient to amend the Legal Practitioners' Act, 1879 in manner in this Act appearing;

And whereas it is also expedient to amend the Indian Stamp Act, 1879, in so far as it relates to the duty chargeable on the enrolment of legal practitioners;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called "The Legal Practitioners' Act, 1884;" and

(2) It shall come into force at once.

Amendment of section 4 of Act XVIII. of 1879.

2. In section 4 of the Legal Practitioners' Act, 1879, for the words "as an advocate on the roll of the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted.

Addition of a proviso to section 13 of same Act.

3. To section 13 of the same Act the following proviso shall be added:—

"Provided that where the party is—

(a) a pardánashín woman, or

(b) unable for any sufficient cause to instruct the pleader in person,

nothing in this section shall make a pleader liable to suspension or dismissal merely by reason that he has taken instructions from a relative or friend authorized by the party to give such instructions and not receiving any remuneration in respect thereof."

Amendment of section 14 of same Act.

4. In section 14 of the same Act, before the words "any District Magistrate" the words "any Judge of a Court of Small Causes of a Presidency-town" shall be inserted.

Amendment of section 25 of same Act.

5. In section 25 of the same Act, after the word "annexed" the words "and of such description as the Local Government may, from time to time, prescribe" shall be inserted.

Amendment of section 27 of same Act.

6. To the first clause of section 27 of the same Act the following shall be added, namely:—"and in respect of the fees of his adversary's revenue-agent appearing, pleading, or acting under section 10."

Amendment of section 38 of same Act.

7. In section 38 of the same Act, for the words "by the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted.

New section substituted for section 41 of same Act.

8. For section 41 of the same Act the following section shall be substituted, namely:—

Power for certain High Courts to enrol advocates.

"41. (1) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

"(2) Every advocate so enrolled shall be entitled to appear for the suitors of the Court, and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

"(3) The High Court may dismiss any advocate so enrolled, or suspend him from practice.

"(4) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Panjáb, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government."

New section added to same Act.

9. To the same Act the following section shall be added, namely :—

Repeal of Acts I. of 1846 and XX. of 1853.

"42. Act I. of 1846 (*for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company*) and Act XX. of 1853 (*to amend the law relating to pleaders in the Courts of the East India Company*) are repealed."

Amendment of Schedules I. & II. of Act I. of 1879. (Duty on enrolment of advocates.)

10. (1) In article 27 of Schedule I. of the Indian Stamp Act, 1879, after the words "in exercise of powers conferred on such Court by Letters Patent," the words "or by the Legal Practitioners' Act, 1884," shall be inserted ; and

(2) In clause (*a*) of article 11 of Schedule II. of the same Act, the words "established by Royal Charter" shall be repealed.

ACT NO. X. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 6TH JUNE 1884.

An Act to amend the Burma Courts Act, 1875.

WHEREAS it is expedient to amend the Burma Courts Act, 1875; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Burma Courts Act, 1884; and

Commencement.

(2) It shall come into force at once.

Definition of "section."

2. In this Act, unless there is something repugnant in the subject or context, "section" means a section of the Burma Courts Act, 1875.

Alteration of names of certain Courts.

3. (1) In section 6, in clause (*a*), for the words "Extra Assistant Commissioner of the third class" the word "Myo-ôk" shall be substituted, and in clause (*b*), the words "of the second class, the Extra Assistant Commissioner of the first class" shall be omitted.

(2) In the table subjoined to section 12, in clause (*a*), for the words "Extra Assistant Commissioner of the third class" the word "Myo-ôk" shall be substituted, and in clause (*b*), the words "of the second class, the Court of the Extra Assistant Commissioner of the first class" shall be omitted.

(3) In section 13, the words "of the first or second class" shall be omitted.

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(4) The substitutions and omissions made by this section shall be deemed to have been made from the thirty-first day of March 1882.

Substitution of new section for section 8.

4. For section 8 the following section shall be substituted :—

"8. The Governor-General in Council may, from time to time, vary the number of the Courts mentioned in clauses (*c*), (*d*), (*e*), and (*f*) of section six, and the Chief Commissioner may, from time to time, vary the number of the Courts mentioned in clauses (*a*) and (*b*) of the same section."

Substitution of new section for section 9.

5. For section 9 the following section shall be substituted :—

"9. The Chief Commissioner may, from time to time, vary the local limits of the jurisdiction of any Court mentioned in section six, clauses (*a*) and (*b*), and, with the previous sanction of the Governor-General in Council, of any Court mentioned in section six, clauses (*c*), (*d*), (*e*), and (*f*)."

Insertion of section after section 9.

6. After section 9 the following section shall be inserted, namely :—

Validation of certain proceedings already taken.

"9A. Any order heretofore passed, or decree made or proceeding taken, by any Civil Court in British Burma acting as if it had the jurisdiction of a Court mentioned in section six, clause (*a*) or clause (*b*), shall not be invalid merely because the Court was established by the Chief Commissioner instead of by the Governor-General in Council, or because the local limits of its jurisdiction were varied by the Chief Commissioner without the previous sanction of the Governor-General in Council, or because any person not an Extra Assistant Commissioner has been appointed to be the presiding officer of the Court of an Extra Assistant Commissioner."

Amendment of section 23.

7. In section 23 the following amendments shall be made, namely :—

(*a*) after the word "Commissioner," each time it occurs, the words "or Deputy Commissioner,"

(*b*) after the words "Judicial Commissioner," the first time they occur, the words "or Commissioner respectively," and

(*c*) after the words "Judicial Commissioner," the second time they occur, the words "or Commissioner,"

shall be respectively inserted.

Insertion of new section after section 23.

8. After section 23 the following section shall be inserted, namely :—

Power for Chief Commissioner to invest Assistant Commissioners with appellate powers.

"23A. The Chief Commissioner may invest any Assistant Commissioner with power to hear appeals from decrees and orders in original suits and proceedings of any Court mentioned in section six, clause (*a*) or (*b*).

"The Chief Commissioner may withdraw the power with which any Assistant Commissioner has been invested under this section."

Substitution of new section for section 38.

9. For section 38 the following section shall be substituted, namely :—

"38. The presiding officer of the Court of Judicial Commissioner shall be appointed by the Governor-General in Council.

"The presiding officers of all the Courts mentioned in section six, clauses (*a*), (*b*), (*c*), (*d*), and (*e*), may be appointed by the Chief Commissioner."

Substitution of new section for section 39.

10. For section 39 the following section shall be substituted, namely:—

"39. The presiding officer of any Court mentioned in section 6, clauses (*a*) to (*f*), both inclusive, may be suspended or removed by the Governor-General in Council.

"The presiding officer of any such Court, except the Court of the Judicial Commissioner, may be suspended or removed by the Chief Commissioner."

Amendments of sections 76 and 80.

11. The following addition and insertion shall be deemed to have been made to, and in, sections 76 and 80, respectively, of the Burma Courts Act, 1875, immediately after the passing of that Act, namely:—

(*a*) To section 76—

"Provided that, if in the opinion of both Courts the point as to which they differ ought to be referred to the High Court, it shall be so referred in manner provided by section eighty, clause (*b*), and thereupon sections eighty-one and eighty-two shall apply."

(*b*) In section 80, after the words "without a Commissioner" the words "and not being cases provided for by section 76."

New section to follow section 94.

12. After section 94 the following section shall be inserted, namely:—

Language of Rangoon Small Cause Court.

"94A. Notwithstanding anything contained in the Code of Civil Procedure, all or any proceedings, written or oral, before any person appointed under section 94 of this Act and section 15 of Act XI. of 1865 to exercise the powers of a Judge of a Court of Small Causes in the Small Cause Court at Rangoon, shall be in such language as the Chief Commissioner may, from time to time, prescribe."

ACT NO. XI. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 19TH JUNE 1884.

An Act to amend the Sindh Incumbered Estates Act, 1881.

WHEREAS it is expedient to amend the Sindh Incumbered Estates Act, 1881, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title. Commencement.

1. This Act may be called the Sindh Incumbered Estates Act, 1884; and shall come into force at once.

Definition of zamíndár in Act XX. of 1881 amended.

2. To the definition of zamíndár in the Sindh Incumbered Estates Act, 1881, the following shall be added, namely:—"and a person holding lands in Sindh which, having been comprised in the jághír lands of a jághírdár, and having ceased to be jághír lands, are assessed by the Government on account of land-revenue at a sum not less than three hundred rupees per year, and, where a joint family or any other body of co-owners holds lands of either of those descriptions, each member of that family or body who would be entitled to demand a partition of the lands."

New section to follow section 5 of same Act.

3. After section 5 of the said Act the following section shall be inserted, that is to say:—

Interim order of protection.

"5A. When the Commissioner has directed an inquiry under section five, he may, if he thinks fit, further direct that, until he dismisses the application or appoints an officer under section seven,—

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"(*a*) all proceedings then pending in any Civil Court or Revenue Court or Office in British India in respect of any of the debts and liabilities to which the debtor is subject, or which are charged on the whole or any part of his immoveable property, shall be stayed, and the operation of all processes, executions, and attachments then in force for or in respect of such debts and liabilities, shall be suspended; and

"(*b*) no fresh proceedings, processes, executions, or attachments, shall be instituted in or issued by any Civil Court or Revenue Court or Office in British India in respect of such debts and liabilities."

Amendment of section 8 of same Act.

4. In section 8, after the words "all immoveable property" the words "including any interest in joint immoveable property" shall be inserted.

Amendment of section 9 of same Act.

5. In section 9 of the same Act, after the words "Civil Court," in both places where they occur, the words "or Revenue Court or Office" shall be inserted.

New section to follow section 24 of same Act.

6. After section 24 of the said Act the following shall be inserted:—

Separation of part of jághír lands subject to lapse.

'24A. When jághír land under management is held on this condition, that on the happening of a certain event a share of the land shall lapse, but that it shall be in the discretion of the person then entitled as jághírdár to divide off and relinquish in respect of the lapse such part of the land, being a fair equivalent of that share, as he thinks fit, the manager may, if he deems it convenient for the better exercise of the powers conferred by sections twenty-three and twenty-four, at any time, after such consultation with persons interested as he thinks necessary, allot by written order, for relinquishment on the happening of the event, such part of the land as he thinks fit; and thereupon that part and no other shall, on the happening of the event, be relinquished."

Amendment of section 27 of same Act.

7. In section 27 of the said Act, after the words "Civil Court" the words "or Revenue Court or Office" shall be inserted.

Time for making applications under same Act.

8. (1) When any person would not have been a zamíndár within the meaning of the said Act before the passing of this Act, but is a zamíndár within the meaning of the said Act as amended by this Act, an application in respect of his estate under section 4 of the said Act may be made at any time within six months from the passing of this Act.

(2) A member of a joint family or other body of co-owners holding zamíndárí land shall, for the purposes of this section, be deemed to be a person who would not have been a zamíndár within the meaning of the said Act before the passing of this Act.

Order of management under same Act to be deemed in accordance with law.

9. Every order of management made under the said Act, whether before or after the passing of this Act, shall be deemed to have been made in accordance with law.

Power to revise scheme of management under same Act.

10. Notwithstanding anything contained in the said Act, the Commissioner may, at any time after he has, whether before or after the passing of this Act, sanctioned a liquidation-scheme under the said Act, revise and modify the same, but not so as to affect the right of any person to receive in full before the termination of the management the amount finally awarded to him under Chapter IV. of the said Act.

ACT NO. XII. OF 1884.

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RECEIVED THE G.-G.'S ASSENT ON THE 24TH JULY 1884.

An Act to amend and provide for the extension of the Northern India Takkávi Act, 1879.

WHEREAS it is expedient to amend the Northern India Takkávi Act, 1879, and provide for its extension to any part of British India; It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Agriculturists' Loans Act, 1884; and

Commencement.

(2) It shall come into force on the first day of August, 1884.

Local extent.

2. (1) This section and section 3 extend to the whole of British India.

(2) The rest of this Act extends in the first instance only to the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, Assam, and Ajmer.

(3) But any other Local Government may, from time to time, by notification in the official Gazette, extend the rest of this Act to the whole or any part of the territories under its administration.

Repeal of Act X. of 1879, and sections 4 and 5 of Act XV. of 1880.

3. (1) On and from the day on which this Act comes into force, the Northern India Takkávi Act, 1879, and sections 4 and 5 of the Bombay Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force and of the interest thereon, be repealed.

(2) All rules made under those Acts shall be deemed to be made under this Act.

Power for Local Government to make rules.

4. (1) The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects.

(2) All such rules shall be published in the local official Gazette.

Recovery of loans.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

Liability of joint borrowers as among themselves.

6. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statem nt showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked, or sealed by each of them or his

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agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

ACT NO. XIII. OF 1884.

PANJAB MUNICIPALITIES.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND AUGUST 1884.

An Act to make better provision for the organization and administration of Municipalities in the Panjáb.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the Panjáb; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.
Local extent.
Commencement.

1. (1) This Act may be called the Panjáb Municipal Act, 1884.

(2) It extends only to the territories for the time being administered by the Lieutenant-Governor of the Panjáb; and

(3) Section 177 shall come into force at once, and the rest of this Act shall come into force on such date as the Local Government may, by notification in the official Gazette, fix in this behalf.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"Committee" means a municipal committee constituted under this Act:

"Municipality" means any local area declared to be a municipality under this Act:

"Inhabitant" includes any person ordinarily residing or carrying on business, or owning or occupying immoveable property, in any local area which is declared to be a municipality under this Act, or which the Local Government has by notification proposed to declare a municipality under this Act:

"Street" includes any way, road, lane, square, court, alley, passage, or open space, whether a thoroughfare or not, over which the public have a right of way; and also the roadway and footway over any public bridge or causeway:

"Owner" includes the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account or as agent or trustee for any person or society, or for any religious or charitable purpose, or who would so receive the same if the land or building were let to a tenant:

"Notification" means a notification published by authority of the Local Government in the official Gazette:

"Notified" means published as aforesaid.

Procedure for constituting municipality.

3. (1) The Local Government may, by notification, propose to declare any town or group of towns, together with any railway-station, village, building, or land in the vicinity of any such town, a municipality under this Act:

Provided that a military cantonment shall not, without the consent of the Governor-General in Council, be comprised in any such notification.

(2) Every such notification shall define the limits of the local area to which it relates.

(3) A copy of every notification under this section, with a translation in such vernacular language as the Local Government directs, shall be affixed in some conspicuous place in the court-house of the district in which the local area to which it relates is situate, and in one or more conspicuous places in that local area.

(4) The Deputy Commissioner shall certify to the Local Government the date on which the copy and translation were so affixed, and the date so certified shall be deemed to be the date of publication of the notification.

(5) If any inhabitant objects to the notification issued under sub-section (1), he may, within six weeks from the date of its publication, submit his objection in writing through the Deputy Commissioner to the Local Government; and the Local Government shall take his objection into consideration.

(6) When six weeks from the date of the publication have expired, and the Local Government has considered and passed orders on any such objections which may have been submitted to it, the Local Government may, by notification, declare the local area to be, for the purposes of this Act, a municipality of the first or second class.

Special rule as to local areas to which Act IV. of 1873 applies.

4. (1) The Local Government may, by notification, declare any local area to which the Panjáb Municipal Act, 1873, has been extended, to be a municipality under this Act, and shall, as soon as may be, so declare every such local area, unless—

(*a*) that local area is comprised in some local area declared to be a municipality under section **3**; or

(*b*) the Local Government has declared, by notification, that the provisions of this Act are unsuited to that local area.

(2) The Local Government shall, by the notification issued in respect of a local area under sub-section (1), declare whether the local area shall be a municipality of the first or of the second class.

(3) The Local Government may, by the notification issued under this section in respect of any local area, direct that the members of the committee for that local area appointed *ex officio*, by nominiation, and by election, under the Panjáb Municipal Act, 1873, and then in office, shall, on and from a day fixed by the notification, be deemed respectively to have been appointed by official designation and by name and elected under this Act as members of a committee for the local area, and shall hold office as such members for such term, not exceeding three years, as may be fixed by the notification.

CHAPTER II.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

Number and appointment or election of members.

5. (1) There shall be established for each municipality a committee having authority over the municipality, consisting of such number of members, not less than six, as the Local Government may fix in this behalf.

(2) The members may be appointed by the Local Government either by name or by official designation, or may be elected from among the inhabitants

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in accordance with rules made by the Local Government under this Act, or some may be appointed and some elected, as the Local Government directs:

Provided that—

(*a*) when the Local Government has directed that all or any proportion of the members shall be elected, it shall not thereafter direct that they shall be appointed, unless a majority of the electors declare that they so desire, or for some reason affecting the public interests; and

(*b*) except with the approval of the Governor-General in Council, or unless salaried officers of the Government are elected, not less than two-thirds of the members of every committee shall be persons other than salaried officers of the Government.

(3) When, under a direction issued under sub-section (2), any places on a committee are required to be filled by election, and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

Term of office of members.

6. (1) A member of a committee when appointed by virtue of an office shall, unless and until the Local Government otherwise directs, continue to be a member of the committee while he continues to hold that office.

(2) The term of office of all other appointed and elected members of a committee shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member may, if otherwise qualified, be again elected or appointed.

Resignation of members.

7. A member of a committee may resign by signifying in writing his intention to do so to the Local Government; and on the acceptance by the Local Government of the resignation, the member shall be deemed to have vacated his office.

Powers of the Local Government as to removal of members.

8. (1) The Local Government may remove any member of a committee—

(*a*) if he refuses to act, or becomes, in the opinion of the Local Government, incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member;

(*b*) if he has been declared by notification to be disqualified for employment in the public service;

(*c*) if he, without an excuse sufficient in the opinion of the Local Government, neglects for more than three consecutive months to be present at the meetings of the committee;

(*d*) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order; or,

(*e*) when he is a salaried officer of the Government, if his continuance in office is, in the opinion of the Local Government, unnecessary or undesirable.

(2) A person removed under this section shall be disqualified for election unless and until the Local Government otherwise directs.

Filling of casual vacancies.

9. (1) When the place of an elected member of a committee becomes vacant by the resignation or removal of the member or by his death, a new member shall be elected in accordance with the rules made by the Local Government under this Act to fill the place:

Provided that the Local Government may direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a member of a committee appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may, if otherwise qualified, be again elected or appointed.

Incorporation of committee.

10. Every committee shall be a body corporate by the name of the municipal committee of its municipality, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to the provisions of this Act, to transfer any property held by it, to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Time when committee shall come into existence.

11. A committee shall come into existence at such time as the Local Government may, by notification, appoint in this behalf:

Provided that a committee constituted under section 4, sub-section (3), shall come into existence on the day fixed under that sub-section.

Consequences of establishment of committee under this Act where Act IV. of 1873 applies.

12. When a committee comes into existence for a municipality constituted under this Act, and that municipality is or comprises within its limits a local area to which the Panjáb Municipal Act, 1873, has been extended, the following consequences shall ensue, namely:—

(a) the said Panjáb Municipal Act shall cease to apply to the local area;

(b) the municipal committee constituted under that Act for the local area (and hereinafter called the old committee) shall cease to exist;

(c) all property vested in the old committee shall, for the purposes of this Act, vest in the committee constituted under this Act (hereinafter called the new committee), subject to all rights (if any) existing over, and all debts, liabilities, and obligations (if any) affecting, that property;

(d) every right and liability belonging to or incurred by the old committee may be enforced by or against the new committee in like manner as it might have been enforced by or against the old committee if this Act had not been passed;

(e) a Government officer employed by the old committee at the time when the new committee comes into existence shall be deemed to be similarly employed by the new committee, and shall not be dismissed from that employment without the sanction of the Local Government; and

(f) the new committee shall be instituted for the old committee in all legal proceedings by or against the old committee pending at the time when the new committee comes into existence.

Member of committee to be municipal commissioner.

13. Every member of a committee constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

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President and Vice-president.

Election or appointment of president and vice-president.

14. (1) Every committee shall, from time to time, elect one of its members to be president, and the member so elected shall, if the election is approved by the Local Government in the case of a first-class committee, and by the Commissioner in the case of a second-class committee, become president of the committee :

Provided that the committee, instead of electing a president, and submitting his name for approval to the Local Government or the Commissioner, may apply to the Local Government or the Commissioner, as the case may be, to appoint a president from among its members, and that the Local Government may, by notification, exclude any committee from the operation of this clause ; and that in either of these cases, or if no election is made within one month from the date of the first meeting of the committee or the occurrence of a vacancy in the office of chairman, or if the person elected is not approved, the Local Government, or in the case of a second-class committee the Commissioner, may, if it or he thinks fit, appoint one of the members of the committee to be president.

(2) Every committee may also, from time to time, elect one or two of its members to be its vice-president or vice-presidents.

Term of office of president and vice-president.

15. (1) A president shall hold office for such term, not exceeding three years, as the Local Government may, by rule, fix ; and a vice-president shall hold office for such term as the committee may, by rule, fix.

(2) A president or vice-president shall vacate office as such when he ceases to be a member of committee, or tenders in writing to the committee his resignation of his office as president or vice-president ; and he may be removed from his office by the Local Government if moved to do so by resolution passed by two-thirds of the members present at a special meeting.

(3) Every resignation of office tendered under this section shall be reported, as soon as may be, to the Deputy Commissioner.

Casual vacancies in office of president or vice-president.

16. (1) If a president or vice-president ceases to be a member of the committee, dies, resigns his office, or is removed, a new president or vice-president shall be elected or appointed in manner provided by section 14.

(2) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.

(3) A person going out of office under sub-section (2) may, if otherwise qualified, be again elected or appointed.

Notification of Elections, Appointments, &c.

Notification of elections, appointments, and vancancies.

17. Every election and appointment of a member or president of a committee, and every vacancy in the office of member or president arising otherwise than by the expiration of his term of office, shall be notified, and no such election or appointment shall take effect until it is notified.

Conduct of Business.

Time for holding meetings.

18. (1) A committee shall meet for the transaction of business at least once in every month at such time as may, from time to time, be fixed by the rules made under section 24.

(2) The president or, in his absence, a vice-president may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth of the members of the committee, convene either an ordinary or a special meeting at any other time.

Ordinary and special meetings.

19. (1) A meeting of a committee shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

20. (1) The quorum necessary for the transaction of business at a special meeting of a committee shall be one-half of the committee.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a committee shall be such number or proportion of the members of the committee as may, from time to time, be fixed by the rules made under section 24, but shall not be less than three :

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

Chairman of meeting.

21. (1) At every meeting of a committee the president, if present, shall preside as chairman.

(2) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting, and a vice-president is present, the vice-president, or, when two vice-presidents are present, the senior of them by date of appointment, shall preside as chairman.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Vote of majority decisive.

22. Except as otherwise provided by this Act or by rules made under this Act, all questions which come before any meeting of a committee shall be decided by a majority of the votes of the members present, the chairman of the meeting, in case of an equality of votes, having a second or casting vote.

Record and publication of proceedings.

23. (1) Minutes of the proceedings at each meeting of committee shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be published in such manner as the Local Government directs, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant.

(2) A copy of every resolution passed by a committee at a meeting shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner.

Rules of business.

24. (1) Every committee may, from time to time, at a special meeting, make rules consistent with this Act and with any rules made by the Local Government under this Act as to—

(a) the time and place of its meetings;

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(b) the manner in which notice of ordinary and special meetings and adjourned meetings shall be given;

(c) the quorum necessary for the transaction of business at ordinary meetings;

(d) the conduct of proceedings at meetings and the adjournment of meetings;

(e) the custody of the common seal and the purposes for which it shall be used;

(f) the person or persons to be primarily responsible for the current executive administration and their powers; that is to say, what portion of the executive authority shall be exercised by the president, by a vice-president, by sub-committees, by individual members, and by officers or servants of the committee;

(g) the persons by whom receipts shall be granted on behalf of the committee for money received under this Act;

(h) the appointment, duties, leave, suspension, and removal of its officers and servants;

(i) the term for which a vice-president shall hold office; and

(j) all other similar matters.

(2) A rule made under clause (c) or clause (f) of sub-section (1) shall not take effect unless it has been approved by the Local Government.

(3) Every rule made under this section shall be published in such manner as the Local Government directs.

Extraordinary powers of president and vice-president in case of emergency.

25. In cases of emergency the president, or in his absence a vice-president, may direct the execution of any work or the doing of any act, which the committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be paid from the municipal fund:

Provided that—

(a) he shall not act under this section in contravention of any order of the committee passed at a meeting; and

(b) where he acts under this section, he shall report his proceedings to the next following meeting of the committee.

Joint Committees.

Joint committees.

26. A committee may concur with any other committee, or with any district board, or with any cantonment authority, or with more than one such committee, board, or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in delegating to any such joint committee any power which might be exercised by either or any of the committees, boards, or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

Defects in Constitution and Irregularities.

Vacancies and irregularities not to invalidate proceedings.

27. Anything done or any proceeding taken under this Act shall not be questioned on account of any vacancy in a committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

Officers and Servants.

Appointment of secretary.

28. (1) Every committee shall, from time to time, at a special meeting, appoint one of its members, or, if the Commissioner consents to its appointing a person not being a member, any other person, to be its secretary, and, may, at a like meeting, remove any person so appointed.

(2) A member of a committee appointed as secretary shall receive no remuneration in respect of his services. When any other person is appointed to be secretary, the committee may, with the previous sanction of the Commissioner, assign to him such pay as it thinks fit.

Employment of other officers and servants.

29. Subject to the other provisions of this Act, and to such rules as the Local Government may make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a committee may employ, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it thinks fit.

Power to prevent extravagance in establishments.

30. If, in the opinion of the Commissioner, the number of persons employed by a committee as officers or servants, or whom the committee propose to employ as such, or the remuneration assigned by the committee to those persons or any of them, is excessive, the committee shall, on the requirement of the Commissioner, reduce the number of those persons or the remuneration, as the case may be :

Provided that the committee may appeal against any such requirement to the Local Government, and the decision of the Local Government on any such appeal shall be final.

Pensions of Government officials serving committees.

31. In the case of a Government official, a committee may—

(1) if his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force ; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the committee, make a contribution on account of his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of others.

32. In the case of an officer or servant not being a Government official, a committee may—

(1) grant him leave-allowances and, if he is employed under the committee appointed under the Panjáb Municipal Act, 1873, when this Act comes into force, and is not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity ; and

(2) if empowered in this behalf by the Local Government—

(*a*) subscribe on his behalf for pension or gratuity under the rules of the Government Civil Pension Code for the time being in force ; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement :

Provided that no pension, gratuity, leave-allowance, or annuity, shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the officer or servant would be entitled if the service had been service under Government.

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Contracts.

Authority to contract.

33. (1) The committee of a municipality of the first-class may, subject to the provisions of this Act, delegate to one or more of its members the power of entering, on its behalf, into any particular contract whereof the value or amount does not exceed five hundred rupees, or into any class of such contracts.

(2) No contract by or in behalf of any committee whereof the value or amount exceeds five hundred rupees shall be entered into until it has been sanctioned at a meeting of a committee.

Mode of executing contracts and transfers of property.

34. (1) Every contract made by or on behalf of the committee of a municipality of the first-class whereof the value or amount exceeds one hundred rupees, and every contract made by or on behalf of the committee of a municipality of the second-class whereof the value or amount exceeds fifty rupees, shall be in writing, and shall be signed by the president or vice president, and by the secretary if he is a member of the committee, or, if the secretary is not a member of the committee, by another member:

Provided that, when the power of entering into any contract on behalf of the committee has been delegated under the last preceding section, the signature or signatures of the member or members to whom the power has been delegated shall be sufficient.

(2) A transfer of immoveable property belonging to a committee must be made by an instrument in writing, executed by the president or vice-president, and by at least two other members of the committee.

(3) No contract or transfer of the description mentioned in this section executed otherwise than in conformity with the provisions of this section shall be binding on the committee.

Penalty on member, officer, or servant being interested in contract made with a committee.

35. (1) If any member, officer, or servant of a municipal committee or joint committee is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168.

(2) A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and a committee; but he shall not take part in any proceedings of the committee relating to any such contract.

Privileges and Liabilities.

Suits against committee and its officers.

36. No suit shall be instituted against a committee or against an officer of a committee in respect of an act purporting to be done by him in his official capacity, until the expiration of one month next after notice in writing has been, in the case of a committee, left at its office, and, in the case of an officer, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such a notice has been so delivered or left:

Provided that this section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

37. Every person shall be liable for the loss, waste, or misapplication of any money or other property belonging to a committee, if such loss, waste, or misapplication is a direct consequence of his neglect or misconduct while a member of the committee; and a suit for compensation for the same may be instituted against him, in such Court as the Local Government directs, by the committee with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Liability of members of committees.

Acquisition of Land.

38. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the committee of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the committee.

Acquisition of Land.

CHAPTER III.

TAXATION.

General Provisions.

39. (1) Subject to any general rules or special orders which the Governor-General in Council may make in this behalf, and to any rules made by the Local Government under this Act, a committee may, from time to time, for the purposes of this Act, and in the manner by this Act directed, impose in the whole or any part of the municipality any of the following taxes, namely:—

Taxes which may be imposed.

(*A*) with the previous sanction of the Local Government:—

(*a*) a tax on buildings and lands either—

(i) not exceeding in any municipalities which may be constituted at the places specified in the schedule hereto annexed 10 per cent., and elsewhere $7\frac{1}{2}$ per cent., on the annual value; or

(ii) not exceeding in the said municipalities one anna four pies, and elsewhere one anna, per square yard of the ground area; or

(iii) not exceeding in the said municipalities four rupees, and elsewhere three rupees, per running foot of frontage in streets or bázárs;

(*b*) a tax on persons practising any profession or art or carrying on any trade or calling in the municipality;

(*c*) a tax on all or any vehicles, boats, animals used for riding, driving, draught, or burden, and dogs, kept within the municipality;

(*d*) a tax on vehicles and animals used as aforesaid entering the municipality;

(*e*) a tax on menial and domestic servants;

(*f*) an octroi on animals for slaughter or goods or both brought within the octroi-limits for consumption or use therein; and

(*B*) with the previous sanction of the Local Government and of the Governor-General in Council, any other tax.

(2). In this section, "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let, and, in the case of houses, may be expected to let unfurnished:

Provided that, in the case of land assessed to land revenue, or of which the land-revenue has been wholly or in part released, compounded for,

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redeemed, or assigned, if the Local Government so directs, the annual value shall be deemed to be double the aggregate of the following amounts, namely :—

(*a*) the amount of the land-revenue for the time being assessed on the land, whether such assessment is leviable or not; or, when the land-revenue has been wholly or in part compounded for or redeemed, the amount which, but for such composition or redemption, would have been leviable; and

(*b*) when the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, the amount of the owner's rate or water-advantage rate or other rate imposed in respect of such improvement.

Scavenging-tax.

40. When a committee has, in exercise of the powers conferred by this Act, provided for the performance, with regard to any buildings or lands, by its agents, of the duties usually performed by sweepers, it may, with the previous sanction of the Local Government, in the manner by this Act directed, impose upon those buildings and lands, in addition to any other tax imposed upon them under this Act, a tax to be called the scavenging-tax, at such rate or of such amount as it thinks fit:

Provided that in fixing the rate or amount regard shall be had to the principle that the total net proceeds of the tax should not exceed the cost of the performance of the said duties.

Water-tax.

41. (1) Besides the taxes mentioned in the foregoing sections, a committee, with the previous sanction of the Local Government, may, for the purpose of constructing or maintaining works for the supply of water to the municipality, or paying the principal or interest of any loan raised for the construction of such works, impose, in the manner by this Act directed, a tax, to be called the water-tax, upon buildings or lands which are so situated that their occupiers can benefit by the works.

(2) The rate or amount of the tax so imposed on different buildings or lands may be determined with reference, among other considerations, to their distance from the nearest point at which the water is deliverable by the works and to their level; but in fixing it regard shall be had to the principle that the total net proceeds of the tax, with the estimated income from payments for water supplied from the works under special contracts, should not exceed the amount required for the said purposes.

Procedure in imposing taxes.

42. (1) A committee may, at a special meeting, pass a resolution to propose the imposition of any tax under section 39, section 40, or section 41.

(2) When such a resolution has been passed, the committee shall publish a notice, defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any inhabitant objecting to the proposed tax may, within thirty days from the publication of the notice, submit his objection in writing to the committee; and the committee shall, at a special meeting, take his objection into consideration.

(4) If no such objection is received within the said period of thirty days, or if such objection, having been considered as aforesaid, is deemed insufficient, the committee may forward its proposals to the Local Government, with the objections (if any) which have been submitted as aforesaid, and its decision thereupon.

(5) The Local Government, on receiving such proposals, may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(6) When the Local Government sanctions any such proposals which require the further sanction of the Governor-General in Council, it shall submit the same to the Governor-General in Council, with the objections (if any) received through the committee; and the Governor-General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(7) When the proposals of a committee have been sanctioned by the Local Government, or by the Local Government and the Governor-General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with such proposals.

(8) In giving such direction the committee shall fix a date from which the tax shall come into force:

Provided that—

(*a*) no tax shall come into force until it has been notified;

(*b*) no tax leviable by the year shall come into force except at the commencement of the year by which it is leviable; and

(*c*) no other tax shall come into force less than six months from the date of the meeting at which its imposition is directed.

(9) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

Power to abolish or reduce tax.

43. A committee may, by a resolution passed at a special meeting, and confirmed by the Local Government, abolish or reduce in amount any tax imposed under the foregoing sections.

Power to exempt from taxation.

44. (1) A committee may exempt, in whole or in part, from the payment of any such tax, any person who, by reason of poverty, may, in its opinion, be unable to pay the same.

(2) A committee may, by resolution passed at a special meeting, and confirmed by the Local Government, and the Local Government may by order, exempt in whole or in part from the payment of any such tax any person or class of persons, or any property or description of property.

Power for Local Government to suspend levy of tax.

45. (1) If at any time it appears to the Local Government, on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence, or that the levy thereof or of any part thereof is injurious to the interest of the general public, it may require the committee to take within a specified period measures to remove the objection; and if within that period the requirement is not complied with to the satisfaction of the Local Government, the Local Government may by notification suspend the levy of the tax or of such part thereof until the objection has been removed.

(2) The Local Government may at any time, by notification, rescind any such suspension.

Taxes not invalid for defect of form.

46. No tax imposed under this Act shall be invalid merely for defect of form; and it shall be enough in any such tax on property, or any assessment of value for the

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purpose of any such tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

Taxes when payable.

47. Any tax imposed under the foregoing sections and payable periodically shall be payable on such dates and in such instalments (if any) as the committee, with the previous sanction of the Local Government, may, by rule, from time to time direct.

Receipts to be given.

48. For all sums paid on account of any tax under this Act, a receipt, stating the amount and the tax on account of which it is paid, shall be given by the person receiving the same, on request by the person making the payment.

Appeals against taxation.

49. (1) An appeal against the assessment or levy of any tax under this Act shall lie to the Deputy Commissioner, unless he is a member of the committee, in which case the appeal shall lie to the Commissioner or other officer empowered by the Local Government in this behalf.

(2) If, on the hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of, a tax arises, on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of any person interested, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the Chief Court.

(3) On a reference being made under sub-section (2) the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in Chapter XLVI. of the Code of Civil Procedure.

Limitation of appeal.

50. (1) No appeal shall lie in respect of a tax on any land or building, unless it is preferred within one month after the publication of the notice prescribed by section 56, and no appeal shall lie in respect of any other tax unless it is preferred within one month from the time when the demand for the tax is made:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the officer before whom the appeal is preferred that he had sufficient cause for not presenting the appeal within that period.

(2) No appeal shall be entertained unless the amount of the tax to which it relates is deposited with the committee before the appeal is preferred.

Taxation not to be questioned except under this Act.

51. No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than in this Act is provided.

Taxes leviable under Act IV. of 1873 to be deemed to be taxes under this Act.

52. All taxes leviable in any local area under the Panjáb Municipal Act, 1873, at the time when a committee having authority over that local area comes into existence under this Act, shall, so far as their imposition and assessment are consistent with this Act and within the powers conferred thereby, be deemed to have been imposed and assessed under this Act.

Preparation of assessment-lists.

53. (1) The committee shall cause an assessment-list of all buildings and lands on which any tax is imposed to be prepared, containing—

(*a*) the name of the street or division in which the property is situate;

(*b*) the designation of the property, either by name or by number, sufficient for identification;

(*c*) the names of the owner and occupier, if known;

(*d*) the annual value, area, or length of frontage on which the property is assessed; and

(*e*) the amount of the tax assessed thereon by the committee.

(2) For the purpose of preparing the list, the committee may require the owners or occupiers of the buildings or lands to furnish it with the returns of the measurements and of the rent or annual value.

Publication of notice of assessments.

54. When the assessment-list has been completed, the committee shall give public notice thereof, and of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, or the agent of any such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for revising assessment-list.

55. (1) The committee shall at the same time give public notice of a time, not less than one month from the publication of the notice, when it will proceed to revise the valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.

(2) All objections to the valuation and assessment shall be made in writing before the time fixed in the notice or orally or in writing at that time.

Settlement of list.

56. (1) After the objections have been enquired into and the persons making them have been allowed an opportunity of being heard either in person or by authorized agent as they think fit, and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the valuation and assessment contained in the list, except in the cases in which amendments have been entered therein; and subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the whole year by which it is leviable next following that in which the assessment is made.

(2) The list, when amended under this section, shall be deposited in the committee's office, and shall there be open during office-hours to all owners and occupiers of property comprised therein, and a public notice that it is so open shall forthwith be published.

Further amendments of assessment-list.

57. (1) The committee may at any time amend the list by inserting the name of any person whose name ought to be inserted, or by inserting any property which ought to have been inserted, or by altering the assessment on any property which has been insufficiently valued or assessed through mistake, oversight, or fraud, after giving notice, to any person interested in the amendment, of a time, not less than one month from the date of service of such notice, at which the amendment is to be made.

(2) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person or by authorized agent as he thinks fit.

New list need not be prepared every year.

58. It shall be in the discretion of the committee to prepare a new assessment-list every year, or to adopt the valuation and assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following, giving the same notice of the valuation and assessment as if a new assessment-list had been prepared.

Remission of tax on unoccupied immoveable property.

59. (1) When a tax payable under section 39, sub-section (1), clause (*a*), or under section 40 or section 41, is payable in one sum in respect of an entire year, and the property in respect of which it is payable is unoccupied throughout the year, or when such a tax is payable in instalments and the property is unoccupied throughout the period in respect of which an instalment is payable, the amount payable in respect of the property for the year, or the instalment, as the case may be, shall be remitted :

Provided that it shall be in the discretion of the committee to direct that no remission shall be granted unless notice in writing of the vacancy has been given to it within such time from the beginning of the year or of the period as it may, from time to time, fix in this behalf.

(2) When in any case not provided for by the foregoing part of this section a building in respect of which a tax is payable under section 39, sub-section (1), clause (*a*), or under section 40 or section 41, is wholly or in greater part demolished or destroyed by fire or otherwise, the committee may remit such proportion of the tax as it thinks equitable.

Taxes on immoveable property by whom payable.

60. (1) A tax payable under section 39, sub section (1), clause (*a*), shall be paid by the owner of the property in respect of which it is payable.

(2) A tax payable under section 40 or section 41 shall be paid by the occupier of the property in respect of which it is payable.

Recovery of taxes payable by owner.

61. (1) When any sum is due on account of a tax payable under this Act in respect of any property by the owner thereof, the committee shall cause a bill for the amount, stating the property and the period for which the charge is made, to be presented to the person liable to pay the same.

(2) If the bill is not paid within ten days from the presentation thereof, the committee may cause a notice of demand to be served on that person ; and if he does not, within seven days from the service of the notice, pay the sum due, with any fee leviable for the notice, or show sufficient cause for non-payment, the sum due, with the fee, shall be deemed to be an arrear of tax.

(3) The amount of every such arrear, besides being recoverable in any other manner provided by this Act, shall, subject to any claim on behalf of Her Majesty, be a first charge on the property in respect of which it is payable, and shall be recoverable, on application made in this behalf by the committee to the Deputy Commissioner, as if the property were an estate assessed to land-revenue and the arrear were an arrear of such revenue due thereon :

Provided that nothing in this sub-section shall authorize the arrest of a defaulter.

Octroi and Tolls.

Power to search where octroi is leviable.

62. If any person, bringing or receiving a conveyance or package within the octroi-limits of a municipality in which octroi is leviable, refuses, on the demand of an officer authorized by the committee in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate, who shall cause the inspection to be made in his presence.

Power to examine article liable to octroi.

63. Every person bringing or receiving within the octroi-limits of any municipality any article on which octroi is payable shall, when required by an officer authorized by the committee in this behalf, and so far as may be necessary for ascertaining the amount of tax chargeable,—

(*a*) permit that officer to inspect, examine, weigh, and otherwise deal with the article; and

(*b*) communicate to that officer any information, and exhibit to him any bill, invoice, or document of a like nature he may possess relating to the article.

Presentation of bill for octroi.

64. Every officer demanding octroi by the authority of the committee shall tender to every person introducing or receiving any article on which the tax is claimed a bill specifying the article taxable, the amount claimed, and the rate at which the tax is calculated.

Recovery of octroi and tolls.

65. (1) In case of non-payment of any octroi or of any toll on demand, the officer empowered to collect the same may seize any article on which the octroi is chargeable, or any vehicle or animal on which the toll is chargeable, or any part of its burden of sufficient value to satisfy the demand.

(2) The committee may cause any property so seized, or so much thereof as is necessary, to be sold by auction to satisfy the demand, with the expenses occasioned by the seizure, custody, and sale thereof, unless the demand and expenses are in the meantime paid, after the lapse of five days from the seizure, and after the issue of a proclamation fixing the time and place of sale:

Provided that, by order of the president or a vice-president, articles of a perishable nature, which could not be kept for five days without serious risk of damage, may be sold after the lapse of such shorter time as he may, having regard to the nature of the articles, think proper.

Power to lease the collection of octroi or tolls.

66. The collection of any octroi or toll may be leased by the committee, with the previous sanction of the Commissioner, for any period not exceeding one year; and the lessee and all persons employed by him in the management and collection of the octroi or toll shall in respect thereof—

(*a*) be bound by any rules made by the committee for their guidance;

(*b*) have such powers exercisable by servants of a committee under this Act as the committee may, from time to time, confer upon them; and

(*c*) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the committee for the management and collection of the octroi or toll.

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CHAPTER IV.

MUNICIPAL FUND AND PROPERTY.

Constitution of municipal fund.

67. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(*a*) all sums received by or on behalf of the committee under this Act or otherwise;

(*b*) all fines realized in cases in which prosecutions are instituted under this Act or the rules made hereunder or under section 34 of Act V. of 1861 for offences committed within the municipality; and

(*c*) when there has been included within the municipality any municipality constituted under the Panjáb Municipal Act, 1873, the balance (if any) standing at the credit of the municipal fund of that municipality at the time when the committee comes into existence.

Application of fund.

68. (1) The committee shall set apart and apply annually out of the municipal fund—

(*a*) *first*, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;

(*b*) *secondly*, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 31 and 32, and such sum as may be required for the maintenance of a police-establishment under Chapter V.;

(*c*) *thirdly*, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief, and Public Works, as may be held by the Local Government to be equitably debitable to the committee in return for services rendered to it by these Departments.

(2) Subject to the charges specified in sub-section (1) and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the municipality, and with the sanction of the Commissioner outside the municipality, when such application of the fund is for the benefit of the inhabitants, namely:—

(*a*) the construction, maintenance, improvement, cleansing, and repair of public streets, bridges, embankments, drains, latrines, tanks, and water-courses;

(*b*) the watering and lighting of such streets or any of them;

(*c*) the construction, establishment, and maintenance of schools, hospitals, and dispensaries, and other institutions for the promotion of education, or for the benefit of the public health, and of rest-houses, saráís, poor-houses, markets, encamping-grounds, pounds, and other works of public utility, and the control and administration of public institutions of any of these descriptions;

(*d*) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper-asylums, and other educational or charitable institutions;

(*e*) the training of teachers and the establishment of scholarships;

(*f*) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity;

(*g*) the supply, storage, and preservation from pollution of water for the use of men or animals;

(*h*) the planting and preservation of trees;

(*i*) the taking of a census, the registration of births, marriages, and deaths, public vaccination, and any other sanitary measure;

(*j*) the holding of fairs and industrial exhibitions; and

(*k*) all acts and things likely to promote the safety, health, welfare, or convenience of the inhabitants.

Custody of municipal fund.

69. (1) In places where there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury, or bank.

(2) In places where there is no such treasury, sub-treasury, or bank, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

Investment of same.

70. (1) A committee may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor-General in Council may, from time to time, approve in this behalf, and vary such investments for others of a like nature.

(2) The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund.

Property vested in committee.

71. Subject to any special reservation made by the Local Government, all property of the nature hereinafter specified and situate within the municipality shall be vested in and belong to the committee, and shall, with all other property which may become vested in the committee, be under its direction, management, and control, and shall be held and applied by it for the purposes of this Act, that is to say:—

(*a*) All public town-walls, gates, markets, slaughter-houses, manure and night-soil depôts, and public buildings of every description which have been constructed or are maintained out of the municipal fund.

(*b*) All public streams, springs, and works for the supply, storage, and distribution of water for public purposes, and all bridges, buildings, engines, materials, and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well.

(*c*) All public sewors and drains, and all sewers, drains, culverts, and watercourses in, alongside, or under any street, and all works, materials, and things appertaining thereto.

(*d*) All dust, dirt, dung, ashes, refuse, animal-matter, or filth or rubbish of any kind collected by the committee from the streets, houses, privies, sewers, cesspools, or elsewhere.

(*e*) All public lamps, lamp-posts, and apparatus connected therewith or appertaining thereto.

(*f*) All land or other property transferred to the committee by the Government, or by gift, purchase, or otherwise for local public purposes.

(*g*) All streets, and the pavements, stones, and other materials thereof, and also all trees, erections, materials, implements, and things provided for such streets.

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Management of public institutions.

72. (1) The management, control, and administration of every public institution maintained out of the municipal fund shall vest in the committee:

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the Local Government.

(2) When any public institution is placed under the direction, mangement, and control of the committee, all property, endowments, and funds belonging thereto shall be held by the committee in trust for the purposes to which such property, endowments, and funds were lawfully applicable at the time when the institution was so placed.

Transfer to Crown of property vesting in committee.

73. The committee may, with the sanction of the Local Government, transfer to Her Majesty any property vesting in the committee under section 71 or section 72, but not so as to affect any trusts or public rights subject to which the property is held.

CHAPTER V.

MUNICIPAL POLICE.

Police-establishment.

74. (1) Every committee shall, unless it is relieved of this obligation by the Local Government, maintain a sufficient police-establishment for police requirements within municipal limits and for the performance of the duties imposed on it by this Act.

(2) The establishment maintained under sub-section (1) shall, as the committee with the approval of the Local Government may, from time to time, determine, be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V. of 1861, or partly the other; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave-allowances, gratuities, and pensions, as the committee may, from time to time, after consultation with the Magistrate of the district and the Inspector-General of Police, and subject to the final decision of the Local Government, direct.

Relief of committee from police-charges.

75. (1) The Local Government may relieve any committee of the whole or part of the cost of the police-establishment, and may enter into a contract with the committee, on such terms as may be agreed on, that, in consideration of such relief, the committee shall pay periodically a sum not exceeding the amount thereof, or undertake any services within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than the amount of the relief.

(2) When a committee is relieved under this section of the whole or part of the cost of the police-establishment which it is required to maintain, the Local Government shall maintain such police-establishment as it considers necessary, and the establishment so maintained may be either a body of watchmen or a part of the general police-force under the Local Government within the meaning of section 2 of Act V. of 1861, or partly one and partly the other.

Appointment, liabilities, and duties of municipal watchmen.

76. (1) If the establishment maintained under this chapter is wholly or in part a body of watchmen, the watchmen—

(a) shall be under the orders of the District Superintendent of Police subject to the general control of the Magistrate of the district;

(*b*) shall be appointed and promoted, and shall be liable to dismissal, suspension, reduction, or fine, under such rules as the Local Government may, from time to time, make in this behalf;

(*c*) shall perform such duties as the Local Government may, from time to time, subject to the provisions of this Act, direct; and

(*d*) shall possess the same powers, be entitled to the same assistance, enjoy the same protection, be subject to the same responsibilities, and be liable to the same penalties as if they were police-officers enrolled under Act V. of 1861.

(2) Any person obstructing any such watchman in the discharge of his duties may be arrested without warrant by a police-officer or by any such watchman.

Duties of municipal police enrolled under Act V. of 1861.

77. If the establishment maintained under this chapter or any portion thereof is part of the general police-force, the Local Government may, notwithstanding anything contained in Act V. of 1861 or in any other Act for the time being in force, define, subject to the provisions of this Act, the duties which the officers and men of the establishment or such portion thereof may or may not be required to perform.

Powers and duties of police in respect of offences against Act and rules, and assistance to municipal authorities.

78. (1) Every member of a police-establishment under this Act shall give immediate information to the committee of any offence committed against this Act or the rules made thereunder, and shall be bound to assist all members, officers, and servants of the committee in the exercise of their lawful authority.

(2) Every member of such police-establishment may arrest any person committing in his view any offence against this Act or the rules made thereunder—

(*a*) if the name and address of the person are unknown to him, or

(*b*) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(3) A person arrested under this section may be detained until his name and address are correctly ascertained:

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate, unless the order of a Magistrate for his detention is obtained.

Saving of section 9 of Act III. of 1880.

79. Nothing in the foregoing sections of this chapter shall affect section 9 of the Cantonments Act, 1880.

Police-protection at fairs, &c.

80. When special police-protection is, in the opinion of the Local Government, requisite on the occasion of any fair, agricultural show, or industrial exhibition managed by a committee, the Local Government may provide such protection, and the committee shall pay the whole charge thereof, or such portion of the charge as the Local Government may consider equitably debitable to it.

CHAPTER VI.

POWERS FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

Power to acquire land for building-sites adjoining new streets.

81. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

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82. The committee may close temporarily any street vested in it or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert, or bridge, or for any other public purpose; and may divert, discontinue, or parmanently close any such street, and sell the land or such part thereof as is not required for the purposes of this Act.

Power to close streets.

83. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

Power to permit temporary occupation of streets, &c.

84. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

Power to attach brackets for lamps.

85. (1) The committee at a meeting may cause a name to be given to any streets, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

Names of streets and numbers of buildings.

(2) Whoever destroys, pulls down, or defaces any such name or number, or puts up any different name or number from that put up by order of the committee, shall be punishable with fine which may extend to twenty rupees.

86. The committee at a meeting may direct that, within certain limits, to be fixed by it, the external roofs and walls of huts or other buildings shall not be made or renewed of grass, mats, leaves, or other highly inflammable materials, unless with the permission of the committee in writing; and the committee may, by written notice, require any person who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed as it may think fit.

Roofs and external walls not to be made of inflammable materials.

87. (1) If any building or part of a building projects beyond the regular line of a public street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the committee may, whenever the building or part has been either entirely or in greater part taken down or burnt down, or has fallen down, by notice require the building or part, when being re-built, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the public street, and shall vest in the committee:

Power to regulate line of buildings.

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

88. (1) Every person intending to erect or re-erect any building shall, if required to do so by rule made by the committee in this behalf, give notice in writing of his intention to the committee, and shall, if required to do so, submit a plan showing the levels at which the foundation and lowest floor are proposed to be laid,

Notice of new buildings.

and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions consistent with this Act given by the committee within one month after receiving such notice, either prohibiting the erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect of all or any of the matters following, namely :—

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(a) free passage or way in front of the building ;

(b) space to be left about the building to secure free circulation of air and facilitate scavenging ;

(c) ventilation and drainage ;

(d) level and width of foundation, level of lowest floor, and stability of structure ; and

(e) the line of frontage with neighbouring buildings, if the building abuts on a street or public thoroughfare :

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of the prohibition of the erection or re-erection of any building, or of its requiring any land belonging to him to be added to the street.

(2) If any such building is begun or erected without giving notice, or without submitting particulars as aforesaid when required, or in contravention of the legal orders of the committee issued within one month, the committee may by notice require the building to be altered or demolished, as it may deem necessary.

Explanation.—The expression "erect any building" includes all additions and alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

Removal of projections and obstructions.

89. (1) It shall not be lawful, unless with the written permission of the committee, for the owner or occupier of any building in a public street to add to, or place against or in front of, the building any projection or structure overhanging, projecting into, or encroaching on the street, or into or on any drain, sewer, or aqueduct therein.

(2) The committee may, by notice, require the owner or occupier of any building to remove or alter any projection, encroachment, or obstruction built or placed against or in front thereof, if the same overhangs or projects into or encroaches on any public street, or projects into or encroaches on any drain, aqueduct, or sewer in the street :

Provided that, in the case of a projection, encroachment, or obstruction being lawfully in existence at the time of the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration.

(3) The committee may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies, or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in the written permission.

Bathing and Washing Places.

Bathing and washing places.

90. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may

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be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness, or comfort of the inhabitants ; and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and all other acts not so permitted by which water in public places may be rendered foul or unfit for use.

Deposit of Offensive Matter and Slaughter-places.

Removal and deposit of offensive matter.

91. The committee may fix places within or, with the approval of the Deputy Commissioner, beyond the limits of the municipality for the deposit of refuse, rubbish, or offensive matter of any kind, or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner, and conditions at, in, and under which such refuse, rubbish, or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Places for slaughter of animals.

92. (1) The committee may, with the approval of the Deputy Commissioner, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may, with the like approval, grant and withdraw licenses for the use of such places, or, if they belong to the committee, charge rent or fees for the use of the same.

(2) When such places are fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such place has been fixed, no person shall slaughter any such animal for sale within the municipality at any other place.

(4) Whoever slaughters any such animal for sale at any other place within the municipality shall be punishable with fine which may extend to twenty rupees.

Burial and Burning Places.

Powers in respect of burial and burning places.

93. (1) The committee may, by public notice, order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood, to be closed, from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf :

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed, after the passing of this Act, without the permission in writing of the committee.

(4) If any person buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to fifty rupees.

Removal of corpses

94. The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

Inflammable Materials.

Inflammable materials.

95. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting dry grass, straw, or other inflammable materials, or placing mats or thatched huts or lighting fires in any place or within any limits specified in the notice.

Powers of Entry and Inspection.

Inspection of drains, privies, and cesspools.

96. (1) The committee, by any person authorized by it in this behalf, may, after giving six hours' notice in writing to the occupier of any land or building in which, any drains, privies, or cesspools are situated, inspect any such drains, privies and cesspools at any time between sunrise and sunset, and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the privies, drains, or cesspools.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but if it is found that no nuisance exists, or, but for such opening, would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing, and making it good, shall be borne by the committee.

Power to enter and inspect buildings, &c.

97. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier, to the owner, of any building, at any time between sunrise and sunset enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected, or otherwise cleansed for sanitary reasons.

Other powers of entry on buildings or land.

98. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or if there is no occupier, to the owner, of any building or land, at any time between sunrise and sunset—

(*a*) enter on, and survey, and take levels of, any land;

(*b*) enter, inspect, and measure any building for the purpose of valuation;

(*c*) enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains, or of executing or repairing any work which it is by this Act empowered to execute or maintain.

Power to enter for discovery of vehicles or animals liable to taxation.

99. The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house, or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Act for which a license has not been duly taken out.

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Power to inspect places for sale of food or drink, &c., and to seize unwholesome articles exposed for sale.

100. The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall, or place used for the sale of food or drink for man, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, drug, or animal which may be therein; and, if any article of food, or drink, or any animal therein, appears to be intended for the consumption of man, and to be unfit therefor, may seize and remove the same, or may cause it to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such consumption;

and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy, or to change its operation, or to render it noxious, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

Power of entry for purpose of scavenging.

101. (1) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any buildings or lands, or of any privies, drains, cesspools, or other receptacles for offensive matter pertaining to buildings or lands, with the consent of the occupier of the building or land, or without such consent, if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties.

(2) When the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it to perform the same may enter on the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

Precautions to be observed in entering dwelling.

102. When any building used as a human dwelling is entered under this Act due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman, who, according to custom, does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes, Privies, and Drains.

Troughs and pipes for rain-water.

103. The committee may, by notice, require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof, and for discharging the same so as not to inconvenience persons passing along the street.

Provision of privies, &c.

104. (1) The committee may, by notice, require the owner of any building to provide any privy or cesspool, or additional privies or cesspools, which should, in its opinion, be provided for the building, in such manner as the committee directs.

(2) The committee may, by notice, require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit, and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The committee may, by notice, require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trapdoor of a privy opening on to any street or drain.

Repair and closing of drains, privies, and cesspools.

105. (1) The committee may, by notice, require the owner or occupier of any building or land to repair or alter, and put in good order, any drain, privy, or cesspool, or to close any cesspool belonging thereto.

(2) The committee may, by notice, require any person who constructs any new drain, privy, or cesspool without its permission in writing, or contrary to its directions or regulations or to the provisions of this Act, or who constructs, rebuilds, or opens any drain, privy, or cesspool which it has ordered to be demolished or stopped up or not to be made, to demolish the drain, privy, or cesspool, or to make such alteration therein as it thinks fit.

Unauthorized buildings over drains, &c.

106. The committee may, by notice, require any person who, without its permission in writing, newly erects or rebuilds any building over any sewer, drain, culvert, watercourse, or water-pipe vested in the committee, to pull down or otherwise deal with the same as it thinks fit.

Removal of latrines, &c., near any source of water-supply.

107. The committee may, by notice, require any owner or occupier on whose land any drain, latrine, urinal, cesspool, or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir, or other source from which water is or may be derived for public use, to remove or close the same within one week.

Power to require drainage, &c., of unwholesome tanks, &c.

108. The committee may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up, or drain off any private tank, well, reservoir, pool, or excavation therein, which appears to the committee to be injurious to health or offensive to the neighbourhood:

Provided that, if for the purpose of effecting any drainage under this section, it is necessary to acquire any land not belonging to the person who is required to drain his land or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

Dangerous Buildings and Places.

Power to require buildings, wells, tanks, &c., to be secured.

109. If any building, or any well, tank, or other excavation, is, for want of sufficient repair, protection, or enclosure, dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice, require the owner or occupier thereof to repair, protect, or enclose the same; and, if it appears to it to be necessary in order to prevent imminent danger, it shall forthwith take such steps as are necessary to avert the danger.

Building, &c., in ruinous or dangerous state.

110. If any building, wall, structure, or anything affixed thereto, is deemed by the committee to be in a ruinous state or in any way dangerous, it may, by notice, require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall, or structure as the committee consider necessary for the public safety; and if it appears to it to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

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Buildings and Grounds in Unsanitary Condition.

Power to require owner to clear away noxious vegetation.

111. The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick or noxious vegetation, jungle, or undergrowth which appears to the committee to be injurious to health or offensive to the neighbourhood.

Power to trim hedges and trees bordering on street, &c.

112. The committee may, by notice, require the owner or occupier of any land, within three days, to cut or trim the hedges thereof bordering on any street, or branches of trees growing thereon which overhang any street and obstruct the same or cause danger thereto, or which so overhang any well, tank, or other source from which water is derived for public use as to be likely to pollute the water thereof.

Power to require owner to cleanse building or land.

113. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may, by notice, require him within twenty-four hours to cleanse the same, or otherwise put it in a proper state.

Power to prohibit owner to use building unfit for human habitation.

114. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or other sufficient reason, the committee may, by notice, prohibit the owner or occupier thereof from using the same for human habitation, or suffering it to be used, until the committee is satisfied that it has been rendered fit for such use.

Power to require untenanted buildings becoming a nuisance to be secured or enclosed.

115. The committee may, by notice, require the owner or person claiming to be the owner of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted, and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time fixed in the notice.

Cultivation, use of manure, or irrigation injurous to health, after prohibition.

116. (1) The Local Government may, on the report of the Sanitary Commissioner that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner in any place within the limits of any municipality is injurious to the health of persons dwelling in the neighbourhood, by notification prohibit the cultivation of the crop, the use of the manure, or the irrigation so reported to be injurious, or regulate it by imposing such conditions thereon as may prevent the injury:

Provided that when on any land to which the notification applies that description of crop has been cultivated, that kind of manure has been used, or irrigation has been practised in that manner during the five years preceding the notification with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

(2) If any person cultivates, uses manure, or irrigates in disregard of the prohibition or conditions notified under sub-section (1), he shall be punishable with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Offensive and Dangerous Trades.

Regulation of offensive and dangerous trades.

117. (1) The owner or occupier of every place within the municipality used for any of the following purposes, namely :—

melting tallow ;

boiling bones, offal, or blood ; or

as a soap-house, oil-boiling house, dyeing-house, or tannery ; or,

as a brick-kiln, pottery, or lime-kiln ; or

as any other manufactory or place of business from which offensive or unwholesome smells arise ; or

as a yard or depôt for trade in hay, straw, thatching-grass, wood, or coal, or other dangerously inflammable material ; or

as a store-house for kerosine, petroleum, naphtha, or any inflammable oil, spirit, or explosive substance ;

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(4) The committee may charge fees for such licenses, and may impose such conditions in respect thereof as it may think necessary.

(5) Whoever, without such registration or without a license, uses any place for any such purpose shall be punishable with fine which may extend to fifty rupees, and with further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to prohibit such trades.

118. (1) If it is shown to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last preceding section is a nuisance to the neighbourhood or likely to be dangerous to life, health, or property, it may, by notice, require the occupier thereof to discontinue the use of the place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

(2) Whoever, after such notice has been given, uses the place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, shall be punishable with fine which may extend to two hundred rupees, and with further fine not exceeding forty rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to make Rules.

Power to make rules.

119. (1) A committee may, from time to time, at a special meeting, make rules—

(*a*) for rendering licenses necessary for the proprietors or drivers of vehicles, boats, or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses, and the conditions on which they are to be granted and may be revoked ;

(*b*) for limiting the rates which may be demanded for the hire of any carriage, cart, boat, or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads, and the loads to be carried by such conveyances, animals, or persons, where they are hired within the

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municipality for a period not exceeding twenty-four hours or for a service which would ordinarily be performed within twenty-four hours;

(c) for securing a proper registration of births, marriages, and deaths, and for the taking of a census;

(d) for fixing, and from time to time varying, the number of persons who may occupy a building or part of a building which is let in lodgings or occupied by members of more than one family;

for the registration and inspection of such buildings;

for promoting cleanliness and ventilation in such buildings;

for the notices to be given and the precautions to be taken in the case of any infectious disease breaking out in such buildings;

and generally for the proper regulation of such buildings;

(e) for the inspection and proper regulation of encamping-grounds, pounds, saráis, markets, and slaughter-houses;

(f) for the holding of fairs and industrial exhibitions within the municipality, and under its control;

(g) for controlling and regulating the use and management of burial and burning grounds;

(h) for the supervision and regulation of public wells, tanks, springs, or other sources from which water is or may be made available for public use;

(i) where the collection of an octroi-tax has been sanctioned, for fixing octroi-limits for the purpose of collecting that tax; and

(j) for carrying out the purposes of this Act:

Provided that the committee of a municipality in which the Hackney Carriage Act, 1879, is in force, shall not make rules under clauses (a) and (b) in respect of any vehicles to which that Act applies.

(2) When the authorities of any cantonment, with the sanction of the Government of India, have agreed with the committee of an adjoining municipality that the same octroi-limits shall be established for the cantonment and the municipality, and that octroi-collections and charges shall be divided between the cantonment fund and the municipal fund, the committee may fix limits under clause (i) of sub-section (1) so as to include so much both of the cantonment and of the municipal area as it may deem necessary, and shall have the same powers of collecting octroi on animals or goods brought within such limits, and the provisions of this Act relating to octroi shall apply in the same way, as if the said limits were wholly comprised in the area of the municipality.

Additional power to make rules in hill municipalities.

120. The committee of a municipality wholly or in part situated in a hilly tract may, from time to time, at a special meeting, make rules—

(a) for regulating or prohibiting the cutting or destroying of trees or shrubs, or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appears necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of land-slips or of the formation of ravines or torrents, or the protection of land against erosion or the deposit thereon of sand, gravel, or stones;

(b) for the regulation or prohibition of any description of traffic in the streets where such regulation or prohibition appears necessary for the prevention of danger or grave inconvenience to the public.

Penalty of infringement of rule.

121. In making any rule under section 119 or section 120 the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with a further fine which may extend

to five rupees for every day after the first during which the breach continues. In lieu of or in addition to such fine, the Magistrate may require the offender to remedy the mischief so far as within his power.

Confirmation of rules.

122. No rule made under section 119 or section 120 shall come into force until it has been confirmed by the Local Government, and published for such time and in such manner as the Local Government may prescribe in this behalf.

Supplemental.

Execution of acts required to be done by any notice.

123. (1) When any notice under this chapter requires any act to be done for which no time is fixed by this Act, it shall fix a reasonable time for doing the same.

(2) When the owner or occupier of any land or building fails to comply with the terms of any notice under this chapter requiring him to do any act upon that land or building, the committee may, after six hours' notice, by its officers, cause the act to be done.

Recovery of costs of execution.

124. (1) Where, under this Act, the owner or occupier of property is required by the committee to execute any work, and makes default in complying with the requirement, and the committee executes the work, the committee may recover the cost of the work from the person in default.

(2) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this sub-section from the rent from time to time becoming due from him to the owner of the property in respect of which the payment is made, or otherwise recover it from the owner.

(3) Provided that an occupier shall not be required to pay, under the last sub-section, any greater sum than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses, on application to him by the committee, truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) All money recoverable by a committee under this section may be recovered either by suit, or on application to a Magistrate having jurisdiction within the municipality by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of property shall, until it is paid, be a charge on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

Compensation out of municipal fund.

125. (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants, under this Act, and shall make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or in

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default of agreement in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 42, 51 to 53, and 56 to 59, so far as they can be made applicable.

Appeals against certain orders of committee.

126. (1) Any person aggrieved by any order made by a committee under the powers vested in it by section 93, 114, or 118, may appeal within thirty days from the date thereof to the Commissioner when the municipality is of the first class, or to the Deputy Commissioner when the committee is of the second class; and no such order shall be liable to be called in question otherwise than by such appeal:

Provided that, if in the latter case the Deputy Commissioner is himself a member of the committee, the appeal shall lie to the Commissioner or other officer empowered by the Local Government in this behalf.

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(3) The order of the appellate authority confirming, setting aside, or modifying the order appealed against, shall be final:

Provided that the order appealed against shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

CHAPTER VII.

OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, OR CONVENIENCE.

Depositing or throwing earth or materials, or refuse, rubbish, or offensive matter on roads or into drains.

127. Whoever, without the permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish, or offensive matter of any kind, upon any public street or place, or into any public sewer or drain, or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees.

Discharging sewage.

128. Whoever, without the permission of the committee, causes or allows the water of any sink, sewer, or cesspool, or any other offensive matter, to flow, drain, or be put upon any public street or place, or into any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees.

Non-removal of filth, &c.

129. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, or filth, or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees.

Making or altering drains without authority.

130. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the committee, shall be punishable with fine which may extend to fifty rupees.

131. Whoever makes, without the permission of the committee, or keeps for a longer time than one week after notice to remove issued under section 107, any drain, latrine, urinal, cesspool, or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir, or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to twenty rupees, and, when a notice has issued, with a further fine not exceeding five rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

Penalty for making or keeping latrines, &c., near any source of water-supply.

132. Whoever keeps any swine in disregard of any orders which the committee may give to prevent them from becoming a nuisance, or keeps any other animals so as to be injurious to health or to become a nuisance, shall be punishable with fine which may extend to twenty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Keeping animals so as to be injurious to health.

133. Whoever feeds or allows to be fed any animal which is kept for diary purposes, or may be used for food, on deleterious substances, filth, or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

Feeding animals on deleterious substances.

134. Whoever drives any vehicle after dark in any public street or thoroughfare at more than a walking pace, unless the vehicle is properly supplied with lights, or there is sufficient moonlight to render lights unnecessary, shall be punishable with fine which may extend to twenty rupees.

Driving vehicles without proper lights.

135. Whoever discharges fire-arms or lets off fire-works or fire-balloons, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

Discharging fire-arms, &c.

136. Whoever, being an elephant-driver or camel-driver, omits, on being requested to do so, to remove his elephant or camel to a safe distance on the approach of a horse, whether ridden or driven, shall be punishable with fine which may extend to twenty rupees.

Control of elephants or camels.

137. Whoever, contrary to any orders of the committee, takes an elephant along a public street or thoroughfare, shall be punishable with fine which may extend to twenty rupees.

Taking elephants along public roads.

138. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any public street or place, shall be punishable with fine which may extend to twenty rupees.

Suffering dogs to be at large.

139. Whoever, without the permission of the committee, alters, obstructs, or encroaches upon any public street, thoroughfare, sewer, drain, or water-course, or displaces, takes up, or alters the pavement or other materials, or the fences or posts of any public street, place, or thoroughfare, or deposits building-materials, or makes any hole or excavation on or in any public street or thoroughfare, shall be punishable with fine which may extend to fifty rupees.

Altering, obstructing, or encroaching upon streets, &c.

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140. Whoever quarries, blasts, cuts timber, or carries on building-operations, in such a manner as to cause, or be likely to cause, danger to persons passing by, or dwelling or working in, the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

Quarrying, blasting, cutting timber, or building.

141. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to twenty rupees.

Picketing animals, and collecting carts.

142. Whoever carries a corpse along a route prohibited by the committee, or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to ten rupees.

Carrying corpses by prohibited routes, or so as to cause annoyance.

143. Whoever, without being authorised by the committee, defaces or disturbs any direction-post or lamp-post, or extinguishes any light in any public place, shall be punishable with fine which may extend to ten rupees.

Destroying direction-posts, lamp-posts, &c.

144. Whoever disobeys any lawful directions given by the committee by public notice under the powers conferred upon it by the last preceding chapter, or any written notice lawfully issued by it under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues:

Penalty for disobedience to orders of committee under last chapter.

Provided that, when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

145. Any prosecution for an offence under section 93 or section 118, or under section 144, when the order which has been disobeyed is appealable, shall be suspended when the Magistrate learns that an appeal has been instituted pending the decision of the appeal; and if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against those sections.

Prosecution to be suspended in certain cases.

CHAPTER VIII.

CONTROL.

146. (1) The Commissioner of the division or the Deputy Commissioner of the district (not being a member of the committee) may—

Control by Commissioner and Deputy Commissioner.

(*a*) enter on, inspect, and survey, or cause to be entered on, inspected, and surveyed, any immoveable property within the limits of the division or district respectively, occupied by any committee or joint committee, or any work in progress within those limits under its directions;

(*b*) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within the said limits;

(c) by order in writing require any such committee or joint committee to furnish such statements, accounts, reports, and copies of documents, relating to the proceedings or duties of the committee, as he may think fit to call for; and

(d) record in writing, for the consideration of any such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee.

(2) Every committee shall submit such periodical reports to the Deputy Commissioner or other authority as the Local Government may, from time to time, direct.

Power to suspend action of committee.

147. The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend, within the division or district respectively, the execution of any resolution or order of a committee or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of, or under cover of, this Act, if, in his opinion, the resolution, order, or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

Extraordinary powers of Deputy Commissioner in case of emergency.

148. (1) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the committee.

(2) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

Power to provide for performance of duties in case of default of committee.

149. (1) When the Commissioner, after due enquiry, is satisfied that a committee of the first class has made default in performing any duty imposed upon it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty; and, if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, by the committee to that person.

(2) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

(3) The Deputy Commissioner shall have the same powers with respect to committees of the second class as are by this section conferred upon the Commissioner with respect to committees of the first class.

Action of Deputy Commissioner or Commissioner to be immediately reported.

150. When the Deputy Commissioner makes any order under section 147, section 148, or section 149, he shall forthwith forward to the Local Government through the Commissioner, and when the Commissioner makes any order under section 147 or section 149, he shall forthwith forward to the Local Government, a copy thereof, with a statement of the reasons for

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making it, and with such explanation, if any, as the committe may wish to offer; and the Local Government may thereupon confirm, modify, or rescind the order.

Powers of Local Government and its officers over committees.

151. (1) It shall be the duty of the Local Government, and of all Commissioners and Deputy Commissioners acting under its orders, to require that the proceedings of committees shall be in conformity with law.

(2) The Local Government may exercise all powers necessary for this purpose, and may, amongst other things, by order in writing, annul or modify any proceeding which it considers not to be in conformity with law.

(3) The Commissioner of the division and the Deputy Commissioner of the district may, within their jurisdiction for the same purpose, exercise such powers as may be conferred upon them by rule made in this behalf by the Local Government.

Power of Local Government to supersede committee in case of incompetency, persistent default, or abuse of powers.

152. (1) If a committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor-General in Council, by notification, in which the reasons for so doing shall be stated, declare the committee to be superseded:

Provided that, in case of public emergency, such notification may be issued without the previous approval of the Governor-General in Council, but shall be forthwith reported to the Governor-General in Council, and shall be subject to his orders.

(2) When a committee is so superseded, the following consequences shall ensue:—

(*a*) All members of the committee shall, from the date of the notification, vacate their offices as such members;

(*b*) All powers and duties of the committee may, until the committee is reconstituted, be exercised and performed by such person as the Local Government appoints in that behalf;

(*c*) All property vested in the committee shall, until the committee is reconstituted, vest in Her Majesty.

(3) The Local Government shall, as soon as in its judgment conveniently may be, constitute another committee in the place of any committee superseded under this section.

Disputes.

153. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more committees constituted under this Act, or between any such committee and a district board or cantonment authority, the matter shall be referred—

(*a*) to the Deputy Commissioner, if the local authorities concerned are in the same district;

(*b*) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and

(*c*) to the Local Government, if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case mentioned in clause (*a*), the Deputy Commissioner is a member of one of the committees or boards concerned, his functions under the section shall be discharged by the Commissioner.

(4) "Local authority" in this section means a municipal committee, district board, or cantonment authority.

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Power of Local Government to frame forms and make rules.

154. The Local Government may frame forms for any proceeding of a committee for which it considers that a form should be provided, and make rules consistent with this Act—

(*a*) with respect to the powers and duties of committees in municipalities of the first and of the second class respectively;

(*b*) as to the division of the municipality into wards, or of the inhabitants into classes, or both;

(*c*) as to the number of representatives proper for each ward or class;

(*d*) as to the qualifications of electors and of candidates for election;

(*e*) as to the registration of electors;

(*f*) as to the nomination of candidates, the time of election, and the mode of recording votes;

(*g*) generally, for regulating all elections under this Act;

(*h*) fixing the term of office of members and presidents of committees;

(*i*) prescribing the qualifications requisite in the case of persons appointed by a committee to offices requiring professional skill;

(*j*) as to the exhibition of tables of octroi, the system under which refunds shall be made on account of that tax when the goods on which the tax has been paid are again exported, and the storage of goods declared not to be intended for use or consumption within the municipality into which they are brought;

(*k*) as to the exhibition of tables showing the rates of tolls chargeable on vehicles and animals entering the municipality; and

(*l*) generally as to the assessment and collection of taxes imposed under this Act, and the fees payable in respect of notices of demand;

(*m*) as to the priority to be given to the several duties of the committee;

(*n*) as to the authority on which money may be paid from the municipal fund;

(*o*) as to the appointment, promotion, dismissal, suspension, reduction, and fining of municipal watchmen;

(*p*) as to the conditions on which property vested in the committee may be transferred by sale, mortgage, lease, exchange, or otherwise;

(*q*) as to the intermediate office or offices, if any, through which correspondence between committees or members of committees and the Local Government or officers of that Government shall pass;

(*r*) as to the preparation of plans and estimates for works to be partly or wholly constructed at the expense of committees, and as to the person by whom, and the conditions subject to which, such plans and estimates may be sanctioned;

(*s*) as to the accounts to be kept by committees, as to the conditions on which such accounts shall be open to inspection by inhabitants paying any tax under this Act, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(*t*) as to the preparation of estimates of income and expenditure of committees, and as to the person by whom, and the conditions subject to which, such estimates may be sanctioned;

(*u*) as to the returns, statements, and reports to be submitted by committees;

(*v*) as to the powers to be exercised by Commissioners and Deputy Commissioners under section 151;

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(w) as to the language in which business shall be transacted, proceedings recorded, and notices issued;

(x) as to the publication of notices; and

(y) generally, for the guidance of committees and public officers in all matters connected with the carrying out of this Act.

General powers of Local Government and Commissioners.

155. In all matters connected with this Act the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

CHAPTER IX.

SUPPLEMENTAL.

Prosecutions.

Authority for prosecutions.

156. Prosecutions for offences against this Act, or the rules made under it, shall not be instituted except by order of, or with the approval of, the committee.

Member not to be deemed interested in prosecution.

157. A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any such prosecution within the meaning of section 555 of the Code of Criminal Procedure merely because he is a member of the committee by the order, or with the approval of, which it has been instituted.

Saving of prosecutions under other laws.

158. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it:

Provided that a person shall not be punished twice for the same offence.

Rules.

Procedure for making rules.

159. (1) The authority empowered to make rules under section 119, section 120, or section 154, shall, before making them, publish, in such manner as may, in its opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date at, or after, which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

(2) If, on such consideration of the draft, any modification is made, the Local Government shall determine whether it is necessary to republish the draft under this section.

(3) Every rule made under any of the said sections shall be notified in English, and in such other language or languages as the Local Government may direct; and such notification shall be conclusive evidence that the rule has been made as is required by this section.

Rules to be available for purchase and inspection.

160. (1) A copy of all rules made under this Act shall be kept at the committee's office, and shall be open during office-hours without charge to the inspection of any inhabitant.

(2) Copies of all such rules shall be kept at the committee's office for sale to the public at a reasonable price.

Continuance of existing rules.

161. (1) The Local Government may, by notification, direct that any rules, regulations, or byē-laws made under the Panjáb Municipal Act, 1873, or any Act thereby repealed, and in force in any local area being, or comprised in, a municipality constituted under this Act when the committee for that municipality comes into existence under section 11, shall, so far as they are consistent with this Act and within the powers conferred thereby, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made.

(2) The authority empowered to make such new rules shall, as soon as may be, make them, and take such action as may be requisite for bringing them into force.

Notices.

Authentication, service, and validity of notices.

162. (1) Every notice issued by a committee under this Act or under any rule made thereunder shall be in writing, and shall be sufficiently authenticated by the signature of the president or secretary, and may be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be posted on some conspicuous part of his place of abode or business.

(2) If the place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(4) If the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Act or under any rule made thereunder shall be invalid for defect of form.

Mode of giving notice to owner or occupier of property.

163. When any notice is, under the provisions of this Act, to be given to or served on the owner or occupier of any property, and he is unknown, it may be given or served—

(*a*) by delivering a written notice to some person on the property, or, if there is no person on the property to whom it can be delivered, by fixing it on some conspicuous part of the property; or

(*b*) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

Publication of public notices.

164. Every public notice given by a committee under this Act or under any rule made thereunder shall be published by proclamation or in such other manner as the Local Government may, by rule, direct.

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Alteration of Boundaries and Class of Municipality.

Notification of intention to alter limits of municipality.

165. The Local Government may, by notification published in the official Gazette, and in such other manner as it may determine, declare its intention—

(*a*) to exclude from a municipality any local area comprised therein and defined in the notification; or

(*b*) to include within a municipality any local area in the vicinity of the same and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor-General in Council.

Alteration of limits of municipality.

166. (1) Any inhabitant of a municipality or local area in respect of which a notification has been published under section 165 may, if he objects to the alteration proposed, submit his objection in writing through the Deputy Commissioner to the Local Government within six weeks from the publication of the notification in the Gazette; and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification in the Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by notification, exclude the local area from the municipality, or include it therein, as the case may be.

Effect of exclusion of local area from municipality.

167. (1) When a local area is excluded from a municipality under section 166,—

(*a*) this Act, and all rules, orders, directions, and powers made, issued, or conferred under this Act, shall cease to apply thereto; and

(*b*) the Local Government shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the committee shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and on the scheme being notified, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section (1) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the safety, health, welfare, or convenience of the inhabitants of the local area.

Effect of including local area in municipality.

168. When a local area is included in a municipality under section 166, this Act, and, except as the Local Government may otherwise by notification direct, all rules, orders, directions, and powers made, issued, or conferred under this Act, and in force throughout the whole municipality at the time the local area is so included, shall apply to the local area.

Power to change class of municipality.

169. The Local Government may, after consulting the committee, direct, by notification, that any municipality be transferred from one class to another.

Powers to except and withdraw Municipalities from provisions of Act. **1884. Act 13.**

170. (1) If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the municipality until again applied thereto by notification.

Power to except municipality from provisions of Act unsuited thereto.

(2) While the exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

Power to withdraw municipal area altogether from operation of this Act or Act IV. of 1878.

171. (1) The Local Government may, by notification, withdraw the local area comprised in any municipality constituted under this Act or the Panjáb Municipal Act, 1873, from the operation of the same.

(2) When a notification is issued under this section in respect of any local area, the Act, and all rules, bye-laws, orders, directions, and powers made, issued, or conferred under the Act, shall cease to apply to the local area; the balance of the municipal fund, and all other property which at the time of the issue of the notification is vested in the municipal committee, shall vest in Her Majesty; and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the safety, health, welfare, or convenience of the inhabitants of the local area.

Miscellaneous.

Recovery of taxes, &c.

172. Any arrears of any tax or fee, or any other money claimable by a committee under this Act, may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property within those limits belonging to the person from whom the money is claimable.

Powers of Governor-General in Council and of Local Government exerciseable from time to time.

173. All powers conferred by this Act on the Governor-General in Council or on the Local Government may be exercised from time to time as occasion requires.

Relief to agents and trustees.

174. (1) When a person, by reason of his receiving the rent of immoveable property as agent or trustee, or of his being as agent or trustee the person who would receive the rent if the property were let to a tenant, would, under this Act, be bound to discharge any obligation imposed by this Act on the owner of the property, and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own act or default might have had, in his hands funds belonging to the owner sufficient for the purpose.

(2) The burden of proving the facts entitling an agent or trustee to relief under this section shall lie on him.

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Act 14.

Decision of question as to whether persons are "inhabitants."

175. If any question arises whether a person or persons of a specified class is or are an inhabitant or inhabitants of a local area within the meaning of this Act, the decision thereon of the Local Government shall be conclusive.

Saving of Act XI. of 1879.

176. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Simla Land-tax.

Whereas there is at present levied on certain lands situate in the municipality of Simla a tax at the rate of ten rupees per two thousand five hundred square yards or fraction of two thousand five hundred square yards; It is hereby enacted as follows:—

Simla land-tax continued.

177. (1) The said tax shall, unless and until a committee under this Act comes into existence for the local area comprised in that municipality, be deemed to be a tax lawfully imposed and assessed under the Panjáb Municipal Act, 1873, and leviable in addition to any other tax leviable under that Act.

(2) If a committee under this Act comes into existence for that local area, the said tax shall be deemed to be a tax lawfully imposed and assessed under this Act, and leviable in addition to any other tax leviable hereunder.

SCHEDULE.

(List of places referred to in section 39.)

SIMLA.	DALHOUSIE.
DHARMSALA.	MURREE.

ACT NO. XIV. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 28TH AUGUST 1884.

An Act for the validation of decisions passed by certain Settlement-officers in the Panjáb.

WHEREAS section 21 of the Panjáb Courts Act, 1865, after conferring certain powers on the Local Government in any district in which a settlement of land-revenue might be in progress, provided as follows, namely:— "The Local Government may also, with the previous sanction of the Governor-General of India in Council, invest any special officer in such district with the civil powers of a Commissioner, Deputy Commissioner, Assistant Commissioner, or Tahsildár, as defined in this Act, for the purpose of deciding suits in respect to land, or the rent, revenue, or produce of land, such powers to be exercised on the Revenue side";

and whereas doubts have recently been raised as to whether the said section conferred power to invest a special officer as aforesaid with power to decide appeals in such suits;

and whereas section 49 of the Panjáb Courts Act, 1877, provides that the Local Government may, from time to time, by notification in the official Gazette, invest any officer making or controlling a settlement of land-revenue in any local area with all or any of the powers of any Court constituted under

that Act, for the purpose of trying all or any specified class of suits and appeals relating to land, or the rent, revenue, or produce of land, arising in that local area;

and whereas certain officers making or controlling settlements of land-revenue have decided suits of the description mentioned in section 21 of the Panjáb Courts Act, 1865, or section 49 of the Panjáb Courts Act, 1877, and appeals in such suits, without being invested with power to decide the same;

and whereas it is apprehended that certain officers making or controlling settlements of land revenue have exercised judicial powers when at places beyond the local limits of their jurisdiction;

and whereas for the quieting of titles and the avoidance of litigation it is expedient that the decisions passed by officers engaged in making or controlling settlements in suits of the description mentioned in section 21 of the Panjáb Courts Act, 1865, and in section 49 of the Panjáb Courts Act, 1877, and in appeals in such suits, should not be impeached for want of authority in such officers, and that the validity of such decisions should be affirmed;

It is hereby enacted as follows:—

Construction of section 21 of Act XIX. of 1865.

1. In the portion of section 21 of the Panjáb Courts Act, 1865, hereinbefore recited, the word "suits" shall be deemed to have always included appeals.

Validation of decisions of certain unauthorised officers.

2. When any officer making or controlling a settlement of land-revenue has decided a suit of the description mentioned in section 21 of the Panjáb Courts Act, 1865, or section 49 of the Panjáb Courts Act, 1877, or an appeal in any such suit, and his decision would, if he had been duly invested with power under either of those sections to decide such suits or appeals, have been valid, the decision shall not be deemed invalid or deprived of any of its effect by reason of the objection that he was not so invested:

Provided that a decision heretofore declared by any competent Court to be invalid on the ground that the officer who decided the suit or appeal was not authorized to decide the same shall not be rendered valid by this section.

Validation of decisions passed beyond local limits of jurisdiction.

3. When the decision of an officer making or controlling a settlement of land-revenue would be deemed valid if it had been passed by him within a particular local area, it shall not be deemed invalid or deprived of any of its effects by reason of the objection that at the time when he passed it he was beyond the limits of that local area.

ACT NO. XV. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 26TH SEPTEMBER 1884.

An Act for the validation of certain licenses to solemnize Marriages granted to Ministers of Religion under Act XXV. of 1864.

WHEREAS by section 4 of Act XXV. of 1864 (*to provide further for the solemnization of Marriages in India of persons professing the Christian Religion*) it was enacted that, from and after the first day of July, 1864, certain Governments therein named should have authority to grant licenses to ministers of religion to solemnize marriages within the territories subject to such Governments respectively:—

1884.

Act 15.

And whereas, in exercise of the authority so conferred, the Governments therein named granted licenses to certain ministers of religion to solemnize marriages;

And whereas Act XXV. of 1864 was repealed by Act V. of 1865 (*to provide for the solemnization of Marriages in India of persons professing the Christian Religion*);

And whereas by section 9 of the latter Act it was enacted that, from and after the commencement of that Act, all marriages which should be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth sections of that Act should be null and void;

And whereas by section 6 of the same Act it was enacted that marriages might be solemnized in India by (among other persons) any minister of religion who, under the provisions of that Act, had obtained a license to solemnize marriages;

And whereas Act V. of 1865 was repealed by the Indian Christian Marriage Act, 1872;

And whereas by section 4 of the latter Act it is enacted that every marriage between persons, one or both of whom is a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section; and that any such marriage solemnized otherwise than in accordance with such provisions shall be null and void;

And whereas by the next following section of the same Act it is enacted that marriages may be solemnized in India by (among other persons) any minister of religion licensed under the same Act to solemnize marriages;

And whereas neither in Act V. of 1865 nor in the Indian Christian Marriage Act, 1872, was there or is there any provision either saving licenses granted under Act XXV. of 1864, or permitting a marriage to be solemnized by a minister of religion who had obtained a license to solemnize marriages under Act XXV. of 1864 only;

And whereas certain marriages have been solemnized both while Act V. of 1865 was in force and since the passing of the Indian Christian Marriage Act, 1872, by ministers of religion who had obtained licenses to solemnize marriages under Act XXV. of 1864, but had never obtained licenses to solemnize marriages under Act V. of 1865 or the Indian Christian Marriage Act, 1872, as the case may be, and doubts have therefore arisen as to the validity of such marriages;

And whereas it is expedient to remove such doubts and to declare the continued validity of licenses to solemnize marriages granted to ministers of religion under Act XXV. of 1864;

It is hereby enacted as follows:—

Validation of licenses to solemnize marriages granted to ministers of religion under Act XXV. of 1864.

1. A license to solemnize marriages granted to a minister of religion under Act XXV. of 1864 shall be deemed, if in force on the date on which Act V. of 1865 came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the date on which the Indian Christian Marriage Act, 1872, came into force, to have been since that Act came into force, and to be, a license granted under that Act.

ACT NO. XVI. OF 1884.

1884.

Act 16.

BURMA GAMING ACT.

RECEIVED THE G.-G.'s ASSENT ON THE 3RD OCTOBER 1884.

An Act to provide more effectually for the suppression of certain forms of Gaming in British Burma.

WHEREAS it is expedient to provide more effectually for the suppression of certain forms of gaming in British Burma; It is hereby enacted as follows:—

Short title, extent, and commencement.

1. (1) This Act may be called the Burma Gaming Act, 1884.

(2) It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma; and

(3) It shall come into force at once.

Application of Act III. of 1867 to game of *ti* and like games.

2. (1) Taking part in the game of "ti," or in any other game or pretended game of a like nature, shall be deemed gaming and playing within the meaning of Act III. of 1867.

(2) Every house, walled enclosure, room, or place, whether public or private, where any such game or pretended game is carried on, shall, for the purposes of that Act, be deemed a common gaming-house, and all expressions referring to the use of any such house, enclosure, room, or place as a common gaming-house, shall include the use thereof for any such game or pretended game on a single occasion.

(3) All boxes, receptacles, lists, papers, tickets, and forms used for the purpose of any such game or pretended game shall be deemed instruments of gaming within the meaning of the said Act.

Penalty on conducting game of *ti* and like games.

3. Whoever conducts or assists in conducting the game of "*ti*," or any other game or pretended game of a like nature, as manager, stakeholder, or *daing*, or who is, according to rules of the game or pretended game, entitled to receive the surplus proceeds, or any part of the surplus proceeds, of the stakes, after deducting the amount payable to the successful player or players, or who promotes the game or pretended game by soliciting or collecting stakes or otherwise, shall be punished with imprisonment for a term which may, for a first offence, extend to six months, and for a subsequent offence to two years, or with fine, or with both.

Power to extend local application of Act III. of 1867 within British Burma.

4. (1) The Chief Commissioner may, from time to time, by notification published in the official Gazette, extend to the whole or any part of the territories for the time being under his administration any such of the provisions of Act III. of 1867 as do not for the time being extend thereto.

(2) From the date of any such extension so much of any rule having the force of law in operation in the territories to which the extension is made as is inconsistent with or repugnant to any provision so extended shall cease to have effect in those territories.

Power to invest 2nd class Magistrate with powers under Act III. of 1867, section 5.

5. The Local Government may authorize any Magistrate of the second class to exercise the powers conferred by section 5 of Act III. of 1867 on the Magistrate of the District.

1884.
Act 17.

Amendment of Act III. of 1867, section 13.

6. In section 13 of Act III. of 1867—

(*a*) for the words "public street, place, or thoroughfare," where they first occur, the words "street or thoroughfare or place to which the public have access" shall be substituted; and

(*b*) in the last clause, for the words "such public place" the words "such place" shall be substituted.

Power to arrest without warrant.

7. A police-officer may arrest without warrant any person soliciting or collecting stakes for the game of *ti*, or any other game or pretended game of a like nature, in any street or thoroughfare or place to which the public have access.

Power to demand security.

8. Whenever a District Magistrate, Sub-divisional Magistrate, or, when he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, receives information that any person within the local limits of his jurisdiction earns his livelihood, wholly or in part, by carrying on, or assisting in carrying on, the game of *ti*, or any other game or pretended game of a like nature, he may deal with such person as nearly as may be as if the information received about him were of the description mentioned in section 110 of the Code of Criminal Procedure; and for the purposes of any proceeding under this section the fact that a person earns his livelihood as aforesaid may be proved by evidence of general repute or otherwise.

ACT NO. XVII. OF 1884.

BURMA MUNICIPALITIES.

RECEIVED THE G.-G.'S ASSENT ON THE 3RD OCTOBER 1884.

An Act to amend the law relating to Municipalities in British Burma.

WHEREAS it is expedient to amend the law relating to Municipalities in British Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, local extent, and commencement.

1. (1) This Act may be called the Burma Municipal Act, 1884.

(2) It extends to the territories for the time being under the administration of the Chief Commissioner of British Burma; and

(3) It shall come into force on such date as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context:—

"municipality" means a local area declared under Chapter II. to be a municipality;

"inhabitant" includes any person ordinarily residing or carrying on business, or owning or occupying immoveable property, in any local area which is declared to be a municipality under this Act, or which the Local Government has by notification proposed to declare a municipality under this Act; and

"street" means any street, road, thoroughfare, passage, or place over which the public have a right of way; and includes the surface-soil and sub-soil of any such street, and the footway and drains of any such street, and any bridge, culvert, or causeway forming part of any such street

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

Proposal to create municipality.

3. (1) The Local Government may, by notification published in the official Gazette, and in such other manner as the Local Government may determine, propose to declare any town, or any group of towns in the immediate neighbourhood of one another, a municipality under this Act.

(2) Every notification under this section shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building, or land in the vicinity of any such town:

Provided that it shall not, without the previous consent of the Governor-General in Council, so include any part of a military cantonment.

Creation of municipality.

4. (1) Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to anything therein contained, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification in the Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, declare the local area to be a municipality under this Act.

Application of Act to existing municipalities.

5. (1) The Local Government may, by notification in the official Gazette, declare any local area which is a municipality established under the British Burma Municipal Act, 1874, to be a municipality under this Act, and shall, within three months from the date on which this Act comes into force, so declare every such local area, unless before the expiration of that period,—

(*a*) that local area is comprised in some local area declared to be a municipality under section 4: or

(*b*) the Local Government has declared, by a notification in the official Gazette, that the provisions of this Act are unsuited to that local area.

(2) The Local Government may, by the notification issued under this section in respect of any local area, direct that the members and the president and vice-president of the committee for that local area appointed *ex-officio*, by nomination, and by election under the said British Burma Municipal Act, 1874, and then in office, shall, on and from a day fixed by the notification, be deemed respectively to have been appointed by virtue of an office and by name, and elected under this Act as members, president, and vice-president of a municipal committee for the local area, and shall hold office as such members, president, and vice-president for such term as may be fixed by the notification.

1884.

Act 17.

CHAPTER III

ORGANIZATION OF MUNICIPAL COMMITTEES.

Constitution of Committees.

Committee to consist of elected and appointed members.

6. There shall be established for each municipality a municipal committee having authority over that municipality; and consisting of—

(*a*) so many inhabitants of the municipality as may be determined by the Local Government elected in manner next hereinafter prescribed to represent wards of the municipality or particular classes of the inhabitants; and

(*b*) such person or persons (if any), not exceeding in number one-fourth of the committee, as the Local Government may appoint by name or by virtue of an office in this behalf:

Provided that—

(1) when the circumstances of the municipality are, in the opinion of the Local Government, such as to require it, the Local Government may appoint a larger proportion of, or all, the members of the committee; and

(2) when any places on a committee are required to be filled by election, and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

Power to Local Government to make rules regarding election.

7. (1) The Local Government shall, for every municipality in which a system of election is introduced, make rules regulating the following matters, namely:—

(*a*) the division of the municipality into wards, or of the inhabitants into classes, or both;

(*b*) the number of representatives proper for each ward or class;

(*c*) the qualifications of electors and of candidates for election;

(*d*) the registration of electors;

(*e*) the nomination of candidates, the time of election, and the mode of recording votes; and

(*f*) any other matters relating to the system of representation and of election for which it may seem expedient to provide.

(2) The Local Government may, after the municipal committee has come into existence as hereinafter provided, amend, after consulting the committee, the rules made under this section; but any amendment made under this sub-section shall not take effect until six months after it has been published in the official Gazette.

(3) Elective members of the committee shall be elected in accordance with the rules made under this section and for the time being in force.

Term of office of members.

8. (1) A member of a municipal committee, when appointed by virtue of an office, shall, unless and until the Local Government otherwise directs, continue to be a member of the committee while he continues to hold that office.

(2) The term of office of all other elected and appointed members of a committee shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member may, if otherwise qualified, be again elected or appointed.

Resignation of member of committee.

9. A member of a municipal committee may resign by notifying in writing to the Local Government his intention to do so, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Removal of member.

10. (1) The Local Government may remove any member of a municipal committee who ceases to be an inhabitant of the municipality, or refuses to act, or becomes, in the opinion of the Local Government, incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the committee.

(2) A person removed under this section on any ground except that first mentioned shall be disqualified for election until the Local Government otherwise directs.

Filling of casual vacancies.

11. (1) When the place of an elected member of a municipal committee becomes vacant by the resignation or removal of the member, or by his death, a new member shall be elected in manner prescribed under section 7 to fill the place.

(2) When the place of a member of a municipal committee appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be again elected or appointed.

Incorporation of municipal committee.

12. Every municipal committee shall be a body corporate by the name of the municipal committee of its municipality, shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property both moveable and immoveable, and to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name:

Provided that a committee shall not transfer any immoveable property except in pursuance of a resolution passed at a special meeting and approved by the Local Government.

Time for committees coming into existence.

13. A municipal committee shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf:

Provided that a committee constituted under section 5, sub-section (2), shall come into existence on the day fixed under that sub-section.

Consequences of establishment of municipal committee where municipal committee under Act VII. of 1874 exists.

14. When a municipal committee comes into existence under section 13 for a municipality constituted under this Act, and that municipality is or comprises within its limits a local area which is a municipality under the British Burma Municipal Act, 1874, the following consequences shall ensue, namely:—

(*a*) the said Act shall cease to apply to the local area;

(*b*) the municipal committee (if any) constituted under that Act for the local area (hereinafter called the old committee) shall cease to exist;

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(c) all property vested in the old committee shall, for the purposes of this Act, vest in the committee constituted under this Act (hereinafter called the new committee), subject to all rights (if any) existing over, and all debts, liabilities, and obligations (if any) affecting, that property;

(d) every right and liability belonging to or incurred by the old committee may be enforced by and against the new committee in like manner as it might have been enforced by and against the old committee if this Act had not been passed;

(e) a Government officer employed by the old committee at the time when the new committee comes into existence shall be deemed to be similarly employed by the new committee, and shall not be dismissed from that employment without the sanction of the Local Government; and

(f) the new committee shall be substituted for the old committee in all legal proceedings by or against the old committee pending at the time when the new committee comes into existence.

Member of municipal committee to be municipal commissioner.

15. Every member of a municipal committee constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

President and Vice-president.

Election of president and vice-president.

16. A municipal committee shall, from time to time, at a special meeting, elect one of its members to be president, and may, from time to time, at a like meeting, elect another of its members to be vice-president:

Provided that in such municipalities, if any, as the Local Government may, by notification in the official Gazette, exempt from the operation of this section, the president shall, until the notification is rescinded by a like notification, be appointed by the Local Government from among the members of the committee.

Term of office of president and vice-president.

17. (1) The term of office of a president or vice-president shall be one year, and on the expiration of that period he may be again elected or appointed.

(2) Nothing in this section shall affect section 5, sub-section (2).

Casual vacancies in office of president or vice-president.

18. (1) If a president elected by a municipal committee or a vice-president dies, ceases to be a member of the committee, or resigns his office, the committee shall, at a special meeting, elect another of its members to be president or vice-president.

(2) If a president appointed by the Local Government dies, ceases to be a member of the committee, or resigns his office, the Local Government shall appoint another president.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may, if otherwise qualified, be again elected or appointed.

Notification of Elections, Appointments, and Removals.

Notification of appointments, &c.

19. All elections and appointments of presidents and vice-presidents, and all elections, appointments, and removals of members, of municipal committees, shall be notified in the local official Gazette, and no such election or appointment shall take effect until it is so notified.

Conduct of Business.

Time for holding meetings.

20. (1) A municipal committee shall meet for the transaction of business at least once in every month, at such time as may, from time to time, be fixed by the rules made under section 27.

(2) The president, or, in his absence, the vice-president, may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth or two of the members of the committee, convene an ordinary or a special meeting at any other time.

Ordinary and special meetings.

21. (1) A meeting of a municipal committee shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting, unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

22. (1) The quorum necessary for the transaction of business at a special meeting of a municipal committee shall be one-half of the whole committee :

Provided that, when the committee consists of less than six members, the quorum shall be three.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal committee shall be such number, not less than three, as may, from time to time, be fixed by the rules made under section 27 :

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before and transacted by the adjourned meeting whether there is a quorum present thereat or not.

Chairman of meeting.

23. (1) At every meeting of a municipal committee the president, if present, shall preside as chairman.

(2) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting, and the vice-president is present, he shall preside as chairman.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Vote of majority decisive.

24. (1) Except as otherwise provided by this Act or by any rule made under this Act, all questions coming before any meeting of a municipal committee shall be decided by a majority of the votes of the members present.

(2) In case of any equality of votes, the chairman at the meeting shall have a second or casting vote.

Resolutions to be recorded and published.

25. Every resolution passed by a municipal committee at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be open to inspection by the public at the municipal office at all reasonable times without charge, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may direct.

1884.

Act 17.

Language of committee.

26. The discussions and proceedings of a municipal committee shall be conducted and recorded either in English or in Burmese, as the committee at a special meeting may, from time to time, decide:

Provided that, if the discussions and proceedings are conducted and recorded in English, the committee shall provide for interpreting and translating them into Burmese for the benefit of members who do not understand English.

Power to make rules as to conduct of business.

27. (1) A municipal committee may, from time to time, at a special meeting, make rules consistent with this Act as to—

(*a*) the time and place of its meetings;

(*b*) the manner in which notice thereof is to be given;

(*c*) the quorum necessary for the transaction of business at ordinary meetings;

(*d*) the conduct of proceedings at meetings, and the adjournment of meetings;

(*e*) the person or persons to be primarily responsible for the current executive administration and their powers; that is to say, what portion of the executive authority shall be exercised by the president, by the vice-president, by sub-committees, by individual members, and by officers or servants of the committee;

(*f*) the persons by whom receipts may be granted on behalf of the committee for money paid under this Act; and

(*g*) any other similar matters.

(2) A rule made under clause (*e*) shall not take effect until it has been confirmed by the Local Government, and no rule made under this section shall take effect until it has been published in such manner as the Local Government may direct.

Extraordinary powers of president and vice-president in case of emergency.

28. In cases of emergency the president, or, in his absence, the vice-president, may direct the execution of any work, or the doing of any act, which the committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be paid from the municipal fund:

Provided that—

(*a*) he shall not act under this section in contravention of any order of the committee passed at a meeting; and

(*b*) where he acts under this section, he shall report his proceedings to the next following meeting of the committee.

Joint Committees.

Joint committee of two or more committees or cantonment authorities.

29. A municipal committee may, from time to time, concur with any other municipal committee or cantonment authority, or with more than one such committee or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the joint committee, and in delegating to any such joint committee any power which might be exercised by either or any of the committees or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which it is appointed.

Defects in Constitution and Irregularities.

Vacancies and irregularities not to invalidate proceedings.

30. Anything done or any proceeding taken under this Act shall not be questioned on account of any vacancy in a municipal committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

Officers and Servants.

Appointment of secretary.

31. (1) A municipal committee shall, from time to time, at a special meeting, appoint one of its members or some other person to be its secretary, and may, at a like meeting, remove any person so appointed.

(2) If a secretary is a member of the committee, he shall receive no remuneration in respect of his services. If he is not a member of the committee, the committee may, with the previous sanction of the Commissioner, assign to him any such pay as it thinks fit.

Employment of other officers and servants.

32. Subject to the other provisions of this Act, and to such rules as the Local Government may make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a municipal committee may appoint and remove, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to those officers and servants such pay as it thinks fit.

Power to prevent extravagance in establishments.

33. If, in the opinion of the Commissioner, the number of persons employed by a municipal committee as officers or servants, or whom the committee propose to employ as such, or the remuneration assigned by the committee to those persons or any of them, is excessive, the committee shall, on the requirement of the Commissioner, reduce the number of those persons, or the remuneration, as the case may be:

Provided that the committee may appeal against any such requirement to the Local Government, and the decision of the Local Government on any such appeal shall be final.

Pensions of Government officials serving the committee.

34. In the case of a Government official, a municipal committee may—

(1) if his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the committee, contribute to his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of other officers and servants.

35. In the case of an officer or servant not being a Government official referred to in section 34, a municipal committee may—

(1) grant him leave-allowances and, if he is employed under the committee appointed under the British Burma Municipal Act, 1874, when this Act comes into force, and is not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity; and

(2) if empowered in this behalf by the Local Government—

(a) subscribe in his behalf for pension or gratuity under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(b) purchase for him from the Government or otherwise an annuity on his retirement:

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Provided that no pension, gratuity, leave-allowance, or annuity, shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under Government.

Contracts and Transfers of Property.

Mode of executing contracts and transfers.

36. (1) When a contract made by or on behalf of a municipal committee exceeds in value or amount one hundred rupees, it must be in writing, and must be signed by the president or vice-president and at least one other member of the committee.

(2) A transfer of immoveable property belonging to the committee must be made by an instrument in writing, executed by the president or vice-president and by at least two other members of the committee.

(3) If any such contract or transfer is executed or made otherwise than in conformity with the provisions of this section, it shall not be binding on the committee.

Penalty on member, officer, or servant of committee being interested in contract made with committee.

37. (1) If any member, officer, or servant of a municipal committee, is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with the committee, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

(2) A person shall not, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and the committee, but he shall not take part in any proceedings of the committee relating to any such contract.

Acquisition of Land.

Acquisition of land under Act X. of 1870.

38. Where any land, whether within or without the limits of a municipality, is required by a municipal committee for the purposes of this Act or for any other object which it is empowered to carry out under any other enactment for the time being in force, the Local Government may, at the request of the municipal committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the committee of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the committee.

Privileges and Liabilities.

Suits against committee and its officers.

39. No suit shall be instituted against a municipal committee or against an officer of any such committee in respect of an act purporting to be done by him in his official capacity until the expiration of one month next after notice in writing has been, in the case of a committee, delivered to or left at its office, and in the case of an officer, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left:

Provided that this section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

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40. Every person shall be liable for the loss, waste, or misapplication of any money or other property belonging to a municipal committee, if the loss, waste, or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation may be instituted against him by the committee or by the Secretary of State for India in Council.

Liability for loss, waste or misapplication.

CHAPTER IV.

TAXATION.

General Provisions.

41. (1) Subject to any general rules or special orders which the Governor-General in Council may make in this behalf, a municipal committee may, for the purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner prescribed by section 45, any of the following taxes, namely:—

Taxes which may be imposed for general purposes of Act.

(*A*) with the previous sanction of the Local Government—

(*a*) a tax on buildings and lands situate within the municipality or any part thereof, not exceeding five per centum of the annual value of the buildings and lands;

(*b*) a tax on lands covered by buildings and situate as aforesaid, at a rate not exceeding one pie per square foot per annum;

(*c*) a tax on houses situate as aforesaid, according to the number of posts in each, at rates not exceeding the following, namely:—

	Rs.	As.	
For a house having not more than 2 posts ...	0	8	per annum.
" " " 3 posts	1	8	"
" " " 4 "	2	8	"
" " " 5 "	4	0	"
" " " 6 "	7	0	"
" " " 7 "	10	0	"

and when a house has more than seven posts, four rupees eight annas additional per annum for each post above seven;

(*d*) a tax on vehicles, boats, and animals used for driving, riding, draught, or burden, and dogs, kept within the municipality or any part thereof;

(*B*) with the previous sanction of the Local Government and of the Governor-General in Council, any other tax:

Provided as follows:—

(*e*) only one of the taxes mentioned in clauses (*a*), (*b*), and (*c*), shall be imposed in respect of the same property; and

(*f*) in assessing a house to the tax mentioned in clause (*c*), only posts facing a road or street shall be counted, except in the case of bázárs or large buildings extending through from street to street, in which case the posts contained in one row from street to street, instead of those facing streets, may, in the discretion of the assessing authority, be counted.

(2) In this section "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let, and, in the case of houses, may be expected to let unfurnished:

Provided that, in the case of land assessed to land-revenue, or of which the land-revenue has been wholly or in part released, compounded for, redeemed, or assigned, if the Local Government so directs, the annual value shall be deemed to be double the amount of the land-revenue for the time being assessed on the land, whether such assessment is leviable or not; or,

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when the land-revenue has been wholly or in part compounded for or redeemed, double the amount which, but for such composition or redemption, would have been leviable.

Water-tax.

42. (1) Besides the taxes imposed under section 41, a municipal committee, with the previous sanction of the Local Government, may, for the purpose of constructing or maintaining works for the supply of water to the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of such works, impose, in manner prescribed by section 45, a tax, to be called the water-tax, upon buildings or lands which are so situated that their occupiers can benefit by the works.

(2) The rate or amount of the tax so imposed on different buildings or lands may be determined with reference, among other considerations, to their distance from the nearest point at which the water is deliverable by the works and to their level; but in fixing it regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water supplied from the works under special contracts or otherwise, should not exceed the amount required for the said purpose.

Lighting-tax.

43. Besides the taxes imposed under the foregoing sections, a municipal committee, with the previous sanction of the Local Government, may, for the purpose of lighting the public streets throughout the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of works required for lighting those streets, impose, in manner prescribed by section 45, a tax, to be called the lighting-tax, upon buildings and lands situate within the municipality or that part thereof, as the case may be :

Provided that in fixing the rate or amount of the tax regard shall be had to the principle that the total net proceeds thereof should not exceed the amount required for the said purpose.

Scavenging-tax.

44. When a committee has, in exercise of the powers conferred by this Act, provided for the performance, with regard to any buildings or lands, by its agents, of the duties usually performed by sweepers, it may, with the previous sanction of the Local Government, impose, in manner prescribed by section 45, upon those buildings and lands, in addition to any other tax imposed upon them under this Act, a tax to be called the scavenging-tax, at such rate or of such amount as it thinks fit :

Provided that in fixing the rate or amount regard shall be had to the principle that the total net proceeds of the tax should not exceed the cost of the performance of the said duties.

Procedure in imposing such taxes.

45. (1) A municipal committee may resolve, at a special meeting, to propose the imposition of any tax under section 41, 42, 43, or 44.

(2) When a resolution has been passed under sub-section (1), the committee shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any person likely to be directly affected by the proposed tax, and objecting to the same, may, within thirty days from the publication of the notice, submit his objection in writing to the committee; and the committee shall, at a special meeting, take his objection into consideration.

(4) If no objection is received within the said period of thirty days, or if the objections received, having been considered as aforesaid, are deemed insufficient, the committee may submit its proposals to the Local Government, with the objections (if any) which have been submitted as aforesaid and its decision thereon.

(5) The Local Government, on receiving such proposals, may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(6) When the Local Government sanctions any such proposals which require the further sanction of the Governor-General in Council, it shall submit those proposals to the Governor-General in Council with the objections (if any) received through the committee; and the Governor-General in Council may sanction the proposals, or refuse to sanction the same, or return them to the Local Government for further consideration.

(7) When the proposals of a municipal committee in respect of a tax have been sanctioned by the Local Government, or by the Local Government and the Governor-General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

(8) In giving such direction the committee shall fix a date from which the tax shall come into force:

Provided that—

(*a*) no tax shall come into force until it has been notified;

(*b*) no tax leviable by the year shall come into force except at the commencement of the year by which it is leviable; and

(*c*) no other tax shall come into force less than six months from the date of the meeting at which its imposition is directed.

(9) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

Power to abolish or reduce tax.

46. A municipal committee may, at a special meeting, with the sanction of the Local Government, abolish or reduce in amount any tax imposed under the foregoing sections.

Power to Local Government to suspend levy of tax.

47. (1) If it at any time appears to the Local Government, on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence, or that the levy thereof or of any part thereof is injurious to the interests of the general public, it may require the municipal committee to take, within a specified period, measures to remove the objection; and, if within that period the requirement is not complied with to the satisfaction of the Local Government, the Local Government may, by notification, suspend the levy of the tax or of any part thereof until the objection has been removed.

(2) The Local Government may at any time, by a like notification, rescind any such suspension.

Power to make rules for assessment, collection, and remission of taxes.

48. (1) The Local Government may make rules for the assessment, collection, and remission of taxes leviable under this Act, and preventing evasion of the same:

Provided that every such rule shall be consistent with the provisions of this Act and with the proposals sanctioned in respect of the tax under section 45.

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(2) In making any rule under this section the Local Government may direct that a breach of any provision thereof shall be punishable with fine which may extend to fifty rupees.

Taxes not invalid for defect of form.

49. No tax imposed under this Act shall be invalid merely for defect of form; and it shall be enough in any such tax on property, or any assessment of value for the purpose of the tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

Taxes leviable under Act VII. of 1874 to be deemed to be taxes under this Act.

50. All taxes leviable in any local area under the British Burma Municipal Act, 1874, at the time when a municipal committee having authority over that local area comes into existence under this Act, shall, so far as their imposition and assessment are consistent with this Act and within the powers conferred thereby, be deemed to have been imposed and assessed under this Act.

Taxes on Immoveable Property.

Preparation of assessment-list.

51. (1) The committee shall cause an assessment-list of all buildings and lands on which any tax is imposed to be prepared, containing—

(*a*) The name of the street or division in which the property is situate;

(*b*) the designation of the property, either by name or by number, sufficient for identification;

(*c*) the names of the owner and occupier, if known;

(*d*) the annual value, area, or number of posts on which the property is assessed; and

(*e*) the amount of the tax assessed thereon by the committee.

(2) For the purpose of preparing the list, the committee may require the owners or occupiers of the buildings or lands to furnish it with returns of the measurements or number of posts or of the rent or annual value.

Publication of notice of assessments.

52. When the assessment-list has been completed, the committee shall give public notice thereof, and of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, or the agent of any such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for revising assessment-list.

53. (1) The committee shall at the same time give public notice of a time, not less than one month from the publication of the notice, when it will proceed to revise the assessment; and in all cases in which any property is for the first time assessed, or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.

(2) All objections to the assessment shall be made in writing before the time fixed in the notice, or orally or in writing at that time.

Settlement of list.

54. (1) After the objections have been enquired into, and the persons making them have been allowed an opportunity of being heard either in person or by authorized agent as they think fit, and the revision of the assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the assessment contained in

the list, except in the cases in which amendments have been entered therein; and subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the whole year by which it is leviable next following that in which the assessment is made.

(2) The list, when amended under this section, shall be deposited in the committee's office, and shall there be open during office-hours to all owners and occupiers of property comprised therein, and a public notice that it is so open shall forthwith be published.

Further amendments of assessment-list.

55. (1) The committee may at any time amend the list by inserting the name of any person whose name ought to be inserted, or by inserting any property which ought to have been inserted, or by altering the assessment on any property which has been insufficiently assessed through mistake, oversight, or fraud, after giving notice to any person interested in the amendment of a time, not less than one month from the date of service of such notice, at which the amendment is to be made.

(2) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person or by authorized agent as he thinks fit.

New list need not be prepared every year.

56. It shall be in the discretion of the committee to prepare a new assessment-list every year, or to adopt the assessment contained in the list for any year with such alterations as may in particular cases be deemed necessary, as the assessment for the year following, giving the same notice of the assessment as if a new assessment-list had been prepared.

Remission of tax on unoccupied immoveable property.

57. When a tax payable under section 41, clause (*a*), (*b*), or (*c*), or under section 42, 43, or 44, is payable in one sum in respect of an entire year, and the property in respect of which it is payable is unoccupied throughout the year, or when such a tax is payable in instalments and the property is unoccupied throughout the period in respect of which an instalment is payable, the amount payable in respect of the property for the year, or the instalment, as the case may be, shall be remitted:

Provided that it shall be in the discretion of the committee to direct that no remission shall be granted unless notice in writing of the vacancy has been given to it within such time from the beginning of the year or of the period as it may, from time to time, fix in this behalf.

Taxes under section 41, clauses (*a*), (*b*), and (*c*), from whom due.

58. Every tax payable under section 41, clause (*a*), (*b*), or (*c*), shall be due jointly and severally from all persons who have been in possession* of the building or land assessed at any time during the year of assessment, or, when the tax is payable by instalments, at any time during the period in respect of which the instalment is payable, and from all persons who have held under them as tenants, mortgagees, or conditional vendees.

Tax under sections 42, 43, and 44 payable by occupier.

59. Every tax leviable under section 42, 43, or 44, shall be payable by the occupier of the building or land in respect of which it is payable.

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* The word "possession" has been substituted for the word "occupation" by Act XI of 1885 (an Act to correct an error in the Burma Municipal Act, 1884).

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CHAPTER V.

FUNDS AND PROPERTY.

Municipal fund constituted.

60. There shall be formed for each municipality a municipal fund, and there shall, except as by this Act provided, be credited thereto—

(*a*) all sums received by or on behalf of the committee under this Act or otherwise;

(*b*) all fines realized in cases in which prosecutions are instituted under this Act or the rules made hereunder, or under section 34 of Act V. of 1861 for offences committed within the municipality;

(*c*) any sums which the Local Government may annually assign, as it is hereby empowered to do, to the municipal fund from the port fund of any port abutting on or within the municipality as being in its opinion a just and reasonable contribution towards the expenditure rendered necessary by the resort to the municipality of seamen from ships lying in the port; and

(*d*) when there has been included within the municipality a municipality constituted under the British Burma Municipal Act, 1874, the balance (if any) standing at the credit of the funds of that municipality at the time when the municipal committee came into existence.

Application of fund.

61. (1) The committee shall set apart and apply annually out of the municipal fund—

(*a*) *first*, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;

(*b*) *secondly*, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 34 and 45;

(*c*) *thirdly*, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief, and Public Works as may be held by the Local Government to be equitably debitable to the committee in return for services rendered to it by these Departments.

(2) Subject to the charges specified in sub-section (1), and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the municipality, and with the sanction of the Commissioner outside the municipality, when such application of the fund is for the benefit of the inhabitants, namely:—

(*a*) the construction, maintenance, improvement, cleansing, and repair of streets, and of public bridges, embankments, drains, latrines, tanks, and water-courses;

(*b*) the watering and lighting of the streets or any of them;

(*c*) the construction, establishment, and maintenance of schools, hospitals, and dispensaries, and other institutions for the promotion of education or for the benefit of the public health, and of rest-houses, zayats, wharves, poor-houses, markets, encamping-grounds, pounds, and other works of public utility, and the control and administration of public institutions of any of these descriptions;

(*d*) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper asylums, and other educational or charitable institutions;

(*e*) the training of teachers and the establishment of scholarships;

(*f*) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity;

(*g*) the supply, storage, and preservation from pollution of water for the use of men or animals;

(*h*) the planting and preservation of trees;

(*i*) the taking of a census, the registration of births, marriages, and deaths, public vaccination, and any other sanitary measure;

(*j*) the holding of fairs and industrial exhibitions; and

(*k*) all acts and things likely to promote the safety, health, welfare, or convenience of the inhabitants.

School fund.

62. (1) There shall be formed for each municipality a school fund. To this fund shall be credited—

(*a*) the fees levied in schools maintained at the cost of the school fund;

(*b*) any assignment that may be made to the school fund from provincial funds or from any district or local fund;

(*c*) any other funds or income that may be entrusted to the municipality for the promotion of education; and

(*d*) any sums assigned for educational purposes from the municipal fund.

(2) The Local Government may fix for any municipality the minimum proportion of the municipal fund that shall be yearly assigned to the school fund under clause (*d*): Provided that the minimum so fixed shall not exceed 5 per cent. on the gross annual income of the municipality.

(3) No expenditure, except expenditure for the promotion of education, shall be charged against the school fund. In case of doubt, the Commissioner shall decide whether any expenditure is or is not for the promotion of education.

Custody of, and disbursements from, funds.

63. (1) The balances standing to the credit of the municipal fund and school fund shall, if there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over situate within the municipality, be kept in that treasury, sub-treasury, or bank. In any other case, the bulk of the funds shall be kept in the nearest Government treasury or sub-treasury or bank as aforesaid, and such money as may be required for current expenditure shall be kept by the committee in a strong box in such place and under such precautions as the committee may, from time to time, direct.

(2) No disbursement of such funds or any part thereof shall be made except under the signature of the president or vice-president and one other member of the committee.

Investment of same.

64. (1) A municipal committee may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund or school fund in securities of the Government of India or such other securities as the Governor-General in Council may approve in this behalf, and vary such investments for others of the like nature.

(2) The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund or school fund, as the case may be.

Property vested in municipality.

65. Subject to any special reservation made by the Local Government, all property in a municipality of the nature hereinafter specified shall be vested in and belong to the municipal committee, and shall, with all other property which may

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become vested in the committee, be under its direction, management, and control, and shall be held and applied by it for the purposes of this Act, that is to say:—

(a) all public town-halls, gates, markets, slaughter-houses, manure and night-soil depôts, and public buildings of every description which have been constructed or are maintained out of municipal funds;

(b) all public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, and other waterworks, and all bridges, buildings, engines, works, materials, and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;

(c) all public sewers and drains, and all sewers, drains, tunnels, culverts, gutters, and watercourses in, alongside, or under any street, and all works, materials, and things appertaining thereto;

(d) all dust, dirt, dung, ashes, refuse, animal-matter or filth, or rubbish of any kind, collected by the committee from the streets, houses, privies, sewers, cesspools, or elsewhere;

(e) all public lamps, lamp-posts, and apparatus connected therewith or appertaining thereto;

(f) all land or other property transferred to the committee by the Government or by gift or otherwise for local public purposes; and

(g) all streets, and the pavements, stones, and other materials thereof, and also all trees, erections, materials, implements, and things, provided for such streets.

Management of public institutions.

66. (1) The management, control, and administration of every public institution maintained out of municipal funds, shall vest in the committee:

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the Local Government.

(2) When any public institution is placed under the direction, management, and control of the committee, all property, endowments, and funds belonging thereto, shall be held by the committee in trust for the purposes to which such property, endowments, and funds, were lawfully applicable at the time when the institution was so placed.

Transfer to Crown of property vesting in committee.

67. The committee may, with the sanction of the Local Government, transfer to Her Majesty any property vesting in the committee under section 65 or section 66, but not so as to affect any trusts or public rights subject to which the property is held.

CHAPTER VI.

Powers for Sanitary and other Purposes.

Streets and Buildings.

Power to acquire land for building-sites adjoining new streets.

68. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street

Power to close streets.

69. The committee may close temporarily any street vested in it or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer,

drain, culvert, or bridge, or for any other public purpose; and may divert, discontinue, or permanently close any such street, and sell the land or such part thereof as is not required for the purposes of this Act.

70. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may, at its discretion, withdraw the permission.

Power to permit temporary occupation of streets, &c.

71. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

Power to attach brackets for lamps.

72. (1) The committee at a meeting may cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

Names of streets and numbers of buildings.

(2) Whoever destroys, pulls down, or defaces any such name or number, or puts up any different name or number from that put up by order of the committee, shall be punishable with fine which may extend to twenty rupees.

73. The committee at a meeting may direct that, within certain limits, to be fixed by it, the external roofs and walls of huts or other buildings shall not be made or renewed of bamboos, grass, mats, leaves, or other highly inflammable materials, unless with the permission of the committee in writing; and the committee may, by written notice, require any person who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed as it may think fit.

Roofs and external walls not to be made of inflammable materials.

74. (1) If any building or part of a building projects beyond the regular line of a public street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the committee may, whenever the building or part has been either entirely or in greater part taken down or burnt down, or has fallen down, by notice require the building or part, when being rebuilt, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the public street, and shall vest in the committee:

Power to regulate line of buildings.

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

75. (1) Every person intending to erect or re-erect any building shall, if required to do so by rule made by the committee in this behalf, give notice in writing of his intention to the committee, and shall, if required to do so, submit a plan showing the levels at which the foundation and lowest floor are proposed to be laid, and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions consistent with this Act given by the committee within one month after receiving such notice, either

Notice of new buildings.

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prohibiting the erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect of all or any of the matters following, namely :—

(*a*) free passage or way in front of the building;

(*b*) space to be left about the building to secure free circulation of air and facilitate scavenging;

(*c*) ventilation and drainage;

(*d*) level and width of foundation, level of lowest floor, and stability of structure: and

(*e*) the line of frontage with neighbouring buildings, if the building abuts on a street or public thoroughfare:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of the prohibition of the erection or re-erection of any building, or of its requiring any land belonging to him to be added to the street.

(2) If any such building is begun or erected without giving notice, or without submitting particulars as aforesaid when required, or in contravention of the legal orders of the committee issued within one month, the committee may by notice require the building to be altered or demolished, as it may deem necessary.

Explanation.—The expression "erect any building" includes all additions or alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

Removal of projections and obstructions.

76. (1) It shall not be lawful, unless with the written permission of the committee, for the owner or occupier of any building in a public street to add to, or place against or in front of, the building any projection or structure overhanging, projecting into, or encroaching on, the street, or into or on any drain, sewer, or aqueduct therein.

(2) The committee may, by notice, require the owner or occupier of any building to remove or alter any projection, encroachment, or obstruction built or placed against or in front thereof, if the same overhangs or projects into or encroaches on any public street, or projects into or encroaches on any drain, aqueduct, or sewer in the street:

Provided that, in the case of a projection, encroachment, or obstruction being lawfully in existence at the time of the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration.

(3) The committee may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies, or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in the written permission.

Bathing and Washing Places.

Bathing and washing places

77. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness, or comfort of

the inhabitants; and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those so specified, and all other acts not so permitted by which water in public places may be rendered foul or unfit for use.

Deposit of Offensive Matter and Slaughter-places.

78. The committe may fix places within or, with the approval of the Deputy Commissioner, beyond the limits of the municipality for the deposit of refuse, rubbish, or offensive matter of any kind, or for the disposal of the dead bodies of animals, and may, by public notice, give directions as to the time, manner, and conditions at, in, and under which such refuse, rubbish, or offensive matter or dead bodies of animals, may be removed along any street, and deposited at such places.

Removal and deposit of offensive matter.

79. (1) The committee may, with the approval of the Deputy Commissioner, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may, with the like approval, grant and withdraw licenses for the use of such places, or, if they belong to the committee, charge rent or fees for the use of the same.

Places for slaughter of animals.

(2) When such places are fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such place has been fixed, no person shall slaughter any such animal for sale within the municipality at any other place.

(4) Whoever slaughters any such animal for sale at any other place within the municipality shall be punishable with fine which may extend to twenty rupees.

Burial and Burning Places.

80. (1) The committee may, by public notice, order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood, to be closed, from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

Powers in respect of burial and burning places.

(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owner thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed, after the passing of this Act, without the permission in writing of the committee.

(4) If any person buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to fifty rupees.

81. The Committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

Removal of corpses.

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Inflammable Materials.

Inflammable materials.

82. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting bamboos, dry grass, straw, or other inflammable materials, or placing mats on thatched huts, or lighting fires in any place or within any limits specified in the notice.

Powers of Entry and Inspection.

Inspection of drains, privies, and cesspools.

83. (1) The committee, by any person authorized by it in this behalf, may, after giving six hours' notice in writing to the occupier of any land or building in which any drains, privies, or cesspools, are situated, inspect any such drains, privies, and cesspools at any time between sunrise and sunset, and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the privies, drains, or cesspools.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing, and making it good, shall be borne by the committee.

Power to enter and inspect buildings, &c.

84. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier, to the owner, of any building, at any time between sunrise and sunset enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected, or otherwise cleansed for sanitary reasons.

Other powers of entry on buildings or land.

85. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier, to the owner, of any building or land, at any time between sunrise and sunset—

(*a*) enter on and survey and take levels of any land;

(*b*) enter, inspect, and measure any building for the purpose of valuation;

(*c*) enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains, or of executing or repairing any work which it is by this Act empowered to execute or maintain.

Power to enter for discovery of vehicles or animals liable to taxation.

86. The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house, or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Act, and which has not been so taxed

Power to inspect places for sale of food or drink, &c, and to seize unwholesome articles exposed for sale.

87. The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall, or place used for the sale of food or drink for man, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, drug, or animal, which may be therein; and, if any article of food or drink or any animal therein appears to be intended for

the consumption of man, and to be unfitt herefor, may seize and remove the same, or may cause it to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such consumption;

and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

Power of entry for purpose of scavenging.

88. (1) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any buildings or lands, or of any privies, drains, cesspools, or other receptacles for offensive matter pertaining to buildings or land, with the consent of the occupier of the building or land, or without such consent if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties.

(2) When the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it to perform the same may enter on the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

Precautions to be observed in entering dwelling.

89. When any building, used as a human dwelling, is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman, who, according to custom, does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes, Privies, and Drains.

Troughs and pipes for rain-water.

90. The committee may, by notice, require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same so as not to inconvenience persons passing along the street.

Provision of privies, &c.

91. (1) The committee may, by notice, require the owner of any building to provide any privy or cesspool, or additional privies or cesspools, which should, in its opinion, be provided for the building, in such manner as the committee directs.

(2) The committee may, by notice, require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit, and to cause the same to be kept in proper order and to be daily cleaned.

(3) The committee may, by notice, require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trapdoor of a privy opening on to any street or drain.

Repair, alteration, and closing of drains, privies, and cesspools.

92. (1) The committee may, by notice, require the owner or occupier of any building or land to repair or alter and put in good order any drain, privy, or cesspool, or to close any cesspool, belonging thereto.

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(2) The committee may, by notice, require any person who constructs any new drain, privy, or cesspool without its permission in writing, or contrary to its directions or regulations or to the provisions of this Act, or who constructs, rebuilds, or opens any drain, privy, or cesspool which it has ordered to be demolished or stopped up or not to be made, to demolish the drain, privy, or cesspool, or to make such alteration therein as it thinks fit.

Unauthorized buildings over drains, &c.

93. The committee may, by notice, require any person who, without its permission in writing, newly erects or rebuilds any building over any sewer, drain, culvert, watercourse, or water-pipe vested in the committee, to pull down or otherwise deal with the same as it thinks fit.

Removal of latrines, &c., near any source of water-supply.

94. The committee may, by notice, require any owner or occupier on whose land any drain, latrine, urinal, cesspool, or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir, or other source from which water is or may be derived for public use, to remove or close the same within one week.

Power to require drainage, &c., of unwholesome tanks, &c.

95. The committee may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up, or drain off any private tank, well, reservoir, pool, or excavation therein, which appears to the committee to be injurious to health or offensive to the neighbourhood :

Provided that, if for the purpose of effecting any drainage under this section it is necessary to acquire any land not belonging to the person who is required to drain his land or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

Dangerous Buildings and Places.

Power to require buildings, wells, tanks, &c., to be secured.

96. If any building, or any well, tank, or other excavation, is, for want of sufficient repair, protection, or enclosure, dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice, require the owner or occupier thereof to repair, protect, or enclose the same ; and, if it appears to it to be necessary in order to prevent imminent danger, it shall forthwith take such steps as are necessary to avert the danger.

Buildings, &c., in ruinous or dangerous state.

97. If any building, wall, structure, or anything affixed thereto, is deemed by the committee to be in a ruinous state, or in any way dangerous, it may, by notice, require the owner or occupier thereof forthwith either to remove the same, or to cause such repairs to be made to the building, wall, or structure as the committee considers necessary for the public safety ; and, if it appears to it to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

Buildings and Grounds in unsanitary condition.

Power to require owner to clear away noxious vegetation.

98. The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick or noxious vegetation, jungle, or undergrowth which appears to the committee to be injurious to health or offensive to the neighbourhood.

99. The committee may, by notice, require the owner or occupier of any land, within three days, to cut or trim the hedges thereof bordering on any street, or branches of trees growing thereon which overhang any street and obstruct the same or cause danger thereto, or which so overhang any well, tank, or other source from which water is derived for public use as to be likely to pollute the water thereof.

Power to trim hedges and trees bordering on streets, wells, &c.

100. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may, by notice, require him, within twenty-four hours, to cleanse the same, or otherwise put it in a proper state.

Cleansing of filthy buildings or land.

101. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or other sufficient reason, the committee may, by notice, prohibit the owner or occupier thereof from using the same for human habitation, or suffering it to be so used, until the committee is satisfied that it has been rendered fit for such use.

Power to prohibit use for human habitation of buildings unfit for such use.

102. The committee may, by notice, require the owner or person claiming to be the owner of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted, and thereby becomes a resort of idle and disorderly persons, or otherwise a nuisance, to secure or enclose the same within a reasonable time fixed in the notice.

Power to require untenanted buildings becoming a nuisance to be secured or enclosed.

103. (1) The committee, on the report of the Sanitary Commissioner that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any specified manner in any place within the limits of the municipality, is injurious to the health of persons dwelling in the neighbourhood, may, with the previous sanction of the Local Government, by notification prohibit the cultivation of the crop, the use of the manure, or the irrigation so reported to be injurious, or regulate it by inposing such conditions thereon as may prevent the injury :

Cultivation, use of manure, or irrigation injurious to health, after prohibition.

Provided that when on any land to which the notification applies that description of crop has been cultivated, that kind of manure has been used, or irrigation has been practised in that manner during the five years preceding the notification with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

(2) If any person cultivates, uses manure, or irrigates in disregard of the prohibition or conditions notified under sub-section (1), he shall be punishable with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Offensive and Dangerous Trades.

104. (1) The owner or occupier of every place within the municipality used for any of the following purposes, namely :—

Regulation of offensive and dangerous trades.

melting tallow ;

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boiling bones, offal, or blood ; or

as a soap-house, oil-boiling house, dyeing-house, or tannery ; or,

as a brick-kiln, pottery, or lime-kiln ; or

as any other manufactory or place of business from which offensive or unwholesome smells arise ; or

as a yard or depôt for trade in hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material ; or

as a store-house for kerosine, petroleum, naphtha, or any inflammable oil, spirit, or explosive substance ;

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(4) The committee may impose such conditions in respect of such license as it may think necessary.

(5) Whoever, without such registration or without a license, uses any place for any such purpose shall be punishable with fine which may extend to fifty rupees, and with further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to prohibit such trades.

105. (1) If it is shown to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last preceding section is a nuisance to the neighbourhood, or likely to be dangerous to life, health, or property, it may, by notice, require the occupier thereof to discontinue the use of the place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

(2) Whoever, after such notice has been given, uses the place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, shall be punishable with fine which may extend to two hundred rupees, and with further fine not exceeding forty rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to make rules.

Power to make rules.

106. A committee may, from time to time, at a special meeting, make rules—

(*a*) for rendering licenses necessary for the proprietors or drivers of vehicles, boats, or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses, and the conditions on which they are to be granted and may be revoked ;

(*b*) for limiting the rates which may be demanded for the hire of any carriage, cart, boat, or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads, and the loads to be carried by such conveyances, animals, or persons, where they are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours ;

(*c*) for securing a proper registration of births, marriages, and deaths, and for the taking of a census ;

(d) for fixing, and from time to time varying, the number of persons who may occupy a building or part of a building which is let in lodgings or occupied by members of more than one family;

for the registration and inspection of such buildings;

for promoting cleanliness and ventilation in such buildings;

for the notices to be given and the precautions to be taken in the case of any infectious disease breaking out in such buldings;

and generally for the proper regulation of such buildings;

(e) for the inspection and proper regulation of encamping grounds, pounds, zayáts, wharves not within the limits of any port, markets, and slaughter-houses;

(f) for the holding of fairs and industrial exhibitions within the municipality and under its control;

(g) for controlling and regulating the use and management of burial and burning grounds;

(h) for the supervision and regulation of public wells, tanks, springs, or other sources from which water is or may be made available for public use; and

(i) for carrying out the purposes of this Act:

Provided that the committee of a municipality in which the Hackney Carriage Act, 1876, is in force, shall not make rules under clauses (a) and (b) in respect of any vehicles to which that Act applies.

Penalty for infringement of rules.

107. In making any rule under section 106 the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues. In lieu of, or in addition to, such fine, the Magistrate may require the offender to remedy the mischief so far as within his power.

Confirmation of rules.

108. No rule made under section 106 shall come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may prescribe in this behalf.

Supplemental.

Execution of acts required to be done by any notice.

109. (1) When any notice under this chapter requires any act to be done for which no time is fixed by this Act, it shall fix a reasonable time for doing the same.

(2) When the owner or occupier of any land or building fails to comply with the terms of any notice under this chapter requiring him to do any act upon that land or building, the committee may, after six hours' notice, by its officers, cause the act to be done.

Recovery of costs of execution.

110. (1) Where, under this Act, the owner or occupier of property is required by the committee to execute any work and makes default in complying with the requirement, and the committee executes the work, the committee may recover the cost of the work from the person in default.

(2) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this sub-section from the rent from time to time becoming due from him to the owner of the property in respect of which the payment is made, or otherwise recover it from the owner.

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(3) Provided that an occupier shall not be required to pay, under the last sub-section, any greater sum than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) All money recoverable by a committee under this section may be recovered either by suit, or on application to a Magistrate having jurisdiction within the municipality by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of property shall, until it is paid, be a charge on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

Compensation out of municipal fund.

111. (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants, under this Act, and shall make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or in default of agreement in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 42, 51 to 53, and 56 to 59, so far as they can be made applicable.

Appeals against certain orders of committee.

112. (1) Any person aggrieved by any order made by a committee under the powers vested in it by section 80, 101, or 105, may appeal within thirty days from the date thereof to the Commissioner or to the Deputy Commissioner as the Local Government may prescribe in this behalf; and no such order shall be liable to be called in question otherwise than by such appeal:

Provided that, if the Deputy Commissioner is himself a member of the committee, the appeal shall lie to the Commissioner or other officer empowered by the Local Government in this behalf.

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(3) The order of the appellate authority confirming, setting aside, or modifying the order appealed against, shall be final:

Provided that the order appealed against shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

CHAPTER VII.

OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, OR CONVENIENCE.

Depositing or throwing earth or materials, or refuse, rubbish, or offensive matter on roads or into drains.

113. Whoever, without the permission of the committee, or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish, or offensive

matter of any kind, upon any public street or place, or into any public sewer or drain, or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees.

Throwing corpse or carcass into river, &c.

114. Whoever throws or causes to be thrown any corpse or carcass, or any part thereof, into any river, stream, well, lake, canal, tank, or any other such place, shall be punishable with fine which may extend to twenty rupees.

Discharging sewage.

115. Whoever, without the permission of the committee, causes or allows the water of any sink, sewer, or cesspool, or any other offensive matter, to flow, drain or be put upon any public street or place, or into any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees.

Non-removal of filth, &c.

116. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any carcass, dirt, dung, bones, ashes, night-soil, or filth, or any noxious or offensive matter, in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees.

Making or altering drains without authoriy.

117. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the committee, shall be punishable with fine which may extend to fifty rupees.

Penalty for making or keeping latrines, &c., near any source of water-supply.

118. Whoever makes, without the permission of the committee, or keeps for a longer time than one week after notice to remove issued under section 94, any drain, latrine, urinal, cesspool, or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir, or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to twenty rupees, and, when a notice has issued, with a further fine not exceeding five rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

Keeping animals in disregard of orders.

119. Whoever keeps any swine, buffaloes, cows, oxen, sheep, or goats in disregard of any orders which the committee may give to prevent them from becoming a nuisance, shall be punishable with fine which may extend to twenty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Feeding animals on deleterious substances.

120. Whoever feeds or allows to be fed any animal, which is kept for dairy purposes or may be used for food, on deleterious substances, filth, or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

Driving vehicles without proper lights.

121. Whoever drives any vehicle after dark in any public street or thoroughfare, unless the vehicle is properly supplied with lights, or there is sufficient moon light to render lights unnecessary, shall be punishable with fine which may extend to twenty rupees.

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Discharging fire-arms, &c.

122. Whoever discharges fire-arms, or lets off fire-works or fire-balloons, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

Suffering dogs to be at large.

123. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any public street or place, shall be punishable with fine which may extend to twenty rupees.

Altering, obstructing, or encroaching upon streets, &c.

124. Whoever, without the permission of the committee, alters, obstructs, or encroaches upon any public street, thoroughfare, sewer, drain, or water-course, or displaces, takes up, or alters the pavement or other materials or the fences or posts of any public street, place, or thoroughfare, or deposits building-materials, or makes any hole or excavation on or in any public street or thoroughfare, shall be punishable with fine which may extend to fifty rupees.

Quarrying, blasting, cutting timber, or building.

125. Whoever quarries, blasts, cuts timber, or carries on building-operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

Penalty on exposure of infected persons and things.

126. Any person who—

(1) while suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor, or driver thereof that he is so suffering; or,

(2) being in charge of any person so suffering, so exposes the sufferer; or

(3) gives, lends, sells, transmits, or exposes without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection from any such disorder, shall be liable to a penalty not exceeding fifty rupees; and a person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, shall in addition be ordered by the Court to pay the owner and driver the amount of any loss and expense they may incur in carrying into effect any measures requisite for disinfection of the conveyance:

Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags, or other things for the purpose of having the same disinfected.

Penalty on failing to provide for disinfection of public conveyance.

127. Every owner or driver of a public conveyance shall immediately provide for the disinfection of the conveyance after it has to his knowledge conveyed any person suffering from a dangerous infectious disorder, and if he fails to do so he shall be liable to a penalty not exceeding fifty rupees; but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying into effect the provisions of this section.

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Picketing animals and collecting carts.

128. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to twenty rupees.

Keeping corpses or carrying corpses by prohibited routes or so as to cause annoyance.

129. Whoever, without the permission of the committee, keeps a corpse or causes it to be kept in or on any building or land when seventy-two hours after death have elapsed, or carries a corpse along a route prohibited by the committee or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to ten rupees.

Destroying direction-posts, lamp-posts, &c.

130. Whoever, in any public place, without being authorized by the committee, defaces or disturbs any direction-post or lamp-post or fence, or injures any tree, or extinguishes any light, shall be punishable with fine which may extend to ten rupees.

Penalty for disobedience to orders of committee under last chapter.

131. Whoever disobeys any lawful directions given by the committee by public notice under the powers conferred upon it by the last preceding chapter, or any written notice lawfully issued by it under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues :

Provided that, when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Prosecution to be suspended in certain cases.

132. Any prosecution for an offence under section 80 or section 105, or under section 131, when the order which has been disobeyed is appealable, shall be suspended, when the Magistrate learns that an appeal has been instituted, pending the decision of the appeal ; and if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against those sections.

CHAPTER VIII.

CONTROL.

Control by Commissioner and Deputy Commissioner.

133. The Commissioner or the Deputy Commissioner may—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property situate within the limits of his division or district respectively and occupied by any municipal committee or joint committee, or any work which is in progress within those limits under the direction of any such committee or joint committee ;

(*b*) call for and inspect any book or document in the possession or under the control of any such committee or joint committee having authority within those limits ;

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(*c*) require any such committee or joint committee to furnish such statements, accounts, reports, and copies of documents relating to the proceedings or duties of the committee or joint committee, as he may think fit to call for; and

(*d*) record in writing, for the consideration of any such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee or joint committee:

Provided that—

(1) when the Deputy Commissioner is a member of a committee or joint committee, he shall not exercise, in respect of that committee or joint committee, the powers conferred upon him by this section; and

(2) in any of the municipalities of Rangoon, Maulmain, Akyab, and Bassein, and any other municipalities to which the Local Government may extend this clause, the said powers shall be exercised by the Local Government, and not by any authority mentioned in the foregoing part of this section.

Power to suspend action under Act.

134. (1) The Commissioner or the Deputy Commissioner may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of a municipal committee or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order, or act, is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When a Commissioner or Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, and of any representations regarding it submitted to him by the municipal committee, to the Local Government, which may thereupon rescind the order, or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

Extraordinary powers of Deputy Commissioner in case of emergency.

135. (1) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a municipal committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the committee.

(2) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is, from time to time, possible, from the balance in priority to any or all other charges against the same.

(3) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

Powers of Local Government in case of default of committee.

136. (1) If at any time it appears to the Local Government that a municipal committee has made default in performing any duty imposed on it by or under this or any other Act for the time being in force, the Local Government may, by order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Deputy Commissioner to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Deputy Commissioner by the committee.

(3) If the expense is not so paid, the Deputy Commissioner, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible, from the balance in priority to any or all other charges against the same.

Power of Local Government to supersede committee in case of incompetency, persistent default, or excess or abuse of powers.

137. (1) If a municipal committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor-General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare the committee to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

(2) When a committee is so superseded, the following consequences shall ensue:—

(a) All members of the committee shall, as from the date of the order, vacate their offices as such members.

(b) All powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the Local Government appoints in that behalf.

(c) All property vested in the committee shall, during the period of supersession, vest in the Local Government.

(3) On the expiration of the period of supersession specified in the order, the committee shall be reconstituted, and the persons who vacated their offices under clause (a) shall not be deemed disqualified from being members.

Disputes.

138. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more committees constituted under this Act, or between any such committee and a cantonment authority, the matter shall be referred—

(a) to the Deputy Commissioner, if the local authorities concerned are in the same district;

(b) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and

(c) to the Local Government, if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If in the case mentioned in clause (a) the Deputy Commissioner is a member of one of the committees concerned, his functions under this section shall be discharged by the Commissioner.

(4) "Local authority" in this section means a municipal committee or cantonment authority.

Annual reports and statements.

139. (1) A municipal committee shall, at the close of each year or of such other period as may, from time to time, be fixed by the Local Government in this behalf, sub-

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mit to the Local Government a statement of its receipts and disbursements, in such form as the Local Government may prescribe, and a general report of its proceedings during that period :

Provided that separate accounts shall be submitted of—

(*a*) all receipts of the water-tax, lighting-tax, and scavenging-tax, and of all expenditure on the purposes for which those taxes are levied, respectively ; and

(*b*) all income under the heads mentioned in section 62, and all expenditure on educational purposes.

(2) Accounts submitted under this section shall be examined or audited in such manner as the Local Government prescribes.

Estimates of receipts and expenditure.

140. (1) A municipal committee shall submit, before such date in each year as may be directed by the Local Government, for the sanction of such authority as the Local Government may appoint in this behalf, an estimate of its probable receipts for the financial year next following, with proposals for its expenditure, and may, from time to time, submit, in like manner, further estimates or proposals amending the same.

(2) No expenditure shall be incurred by the committee unless it is provided for in a proposal sanctioned under this section.

(3) An abstract of the annual estimate and proposals submitted and sanctioned as required by this section shall be published in such manner as the Local Government directs.

Sanction to works.

141. (1) No new work, the estimated cost of which exceeds five hundred rupees, shall be begun by a municipal committee, nor shall any contract be entered into by it in respect of any such work, until a plan and estimate thereof have been approved by the committee at a meeting.

(2) If the estimated cost of any such new work has not been specifically provided for in proposals submitted and sanctioned in manner mentioned in section 140, or exceeds—

twenty thousand rupees in the case of the municipalities of Rangoon, Maulmain, Bassein, and Akyab, or

one-tenth of the estimated annual income of the municipal fund in the case of any other municipality,

it shall not be begun, nor shall any contract be entered into in respect of it, until the plan and estimate have been submitted to and approved by the Local Government, or by an officer empowered by the Local Government in this behalf.

Powers of Commissioner.

142. In all matters connected with the administration of this Act, a Commissioner shall have and exercise the same authority and control over a Deputy Commissioner subordinate to him as he has and exercises over the Deputy Commissioner in the general and revenue administration.

Additional power of Local Government to frame forms and make rules.

143. The Local Government may frame forms for any proceeding of a municipal committee for which it considers that a form should be provided, and may, in addition to any other powers to make rules conferred by this Act, make rules consistent with this Act—

(*a*) as to the intermediate office or offices, if any, through which correspondence between municipal committees and the Local Government or officers of that Government, and representations addressed to the Local Government under this Act, shall pass ;

(b) as to the preparation of estimates of receipts and expenditure of committees, and as to the conditions subject to which such estimates may be sanctioned;

(c) as to the returns, statements, and reports to be submitted by committees; and

(d) generally for the guidance of committees and public officers in all matters connected with the carrying out of this Act.

CHAPTER IX.

SUPPLEMENTAL.

Criminal Procedure.

Power and duties of police in respect of offences against Act and rules, and assistance to municipal authorities.

144. (1) Every police-officer employed in a municipality shall give immediate information to the committee of any offence committed against this Act or the rules made thereunder, and shall be bound to assist all members, officers, and servants of the committee in the exercise of their lawful authority.

(2) Any such police-officer may arrest any person committing in his view any offence against this Act or the rules made thereunder—

(a) if the name and address of the person are unknown to him, or

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(3) A person arrested under this section may be detained until his name and address are correctly ascertained:

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate, unless the order of a Magistrate for his detention is obtained.

Prosecutions.

145. Prosecutions for offences against this Act or the rules made under it shall not be instituted except by order of or with the approval of the municipal committee.

Member not to be deemed interested in prosecution.

146. A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any such prosecution within the meaning of section 555 of the Code of Criminal Procedure merely because he is a member of the committee by the order or with the approval of which it has been instituted.

Saving of prosecutions under other laws.

147. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it:

Provided that a person shall not be punished twice for the same offence.

Rules.

Procedure for making rules under section 7, 40, 106, or 143.

148. (1) The authority empowered to make rules under section 7, 48, 106, or 143, shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

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(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

Continuance of existing rules.

149. (1) The Local Government may, by notification in the official Gazette, direct that any rules made under the British Burma Municipal Act, 1874, and in force in any local area being, or comprised in, a municipality constituted under this Act at the time the municipal committee for that municipality comes into existence under section 13, shall, so far as they are consistent with this Act and within the powers conferred thereby, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made.

(2) The authority empowered to make such new rules shall, as soon as may be, make them and take such action as may be requisite for bringing them into force.

Recovery of Money.

Recovery of money.

150. All fees and all rents and other sums due on account of property for the time being vested in or managed by the municipal committee, and all arrears of taxes and other money due for water supplied or otherwise under this Act, may be recovered as if they were arrears of land-revenue.

Notices.

Authentication, service, and validity of notices.

151. (1) Every notice issued by a committee under this Act or under any rule made thereunder shall be in writing, and shall be sufficiently authenticated by the signature of the president or secretary, and may be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be posted on some conspicuous part of his place of abode or business.

(2) If the place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(4) If the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Act or under any rule made thereunder shall be invalid for defect of form.

Mode of giving notice to owner or occupier of property.

152. When any notice is, under the provisions of this Act, to be given to, or served on, the owner or occupier of any property, and he is unknown, it may be given or served—

(*a*) by delivering a written notice to some person on the property or, if there is no person on the property to whom it can be delivered, by fixing it on some conspicuous part of the property; or

(*b*) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

Publication of public notices.

153. Every public notice given by a committee under this Act or under any rule made thereunder shall be published by proclamation or in such other manner as the Local Government may, by rule, direct.

Alteration of Municipal Limits.

Notification of intention to alter limits of municipality.

154. The Local Government may, by notification published in the official Gazette, and in such other manner as the Local Government may determine, declare its intention—

(*a*) to exclude from a municipality any local area comprised therein and defined in the notification, or

(*b*) to include within a municipality any local area in the vicinity of the same and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor-General in Council.

Alteration of limits of municipality.

155. (1) Any inhabitant of a municipality or local area in respect of which a notification has been published in the official Gazette under section 154 may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the official Gazette, and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification in the official Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, exclude the local area from the municipality, or include it therein, as the case may be.

Effect of exclusion of local area from municipality.

156. (1) When a local area is excluded from a municipality under section 155—

(*a*) this Act, and all rules, orders, directions, and powers made, issued, or conferred under this Act, shall cease to apply thereto; and

(*b*) the Local Government shall, after consulting the municipal committee, frame a scheme determining what portion of the balance of the municipal and school funds and other property vested in the municipal committee shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and, on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section (1) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the safety, health, welfare, or convenience of the inhabitants of the local area.

Effect of including local area in municipality.

157. When a local area is included in a municipality under section 155, this Act, and, except as the Local Government may otherwise, by notification in the official Gazette, direct, all rules, orders, directions, and powers made, issued, or conferred under this Act, and in force throughout the whole municipality at the time the local area is so included, shall apply to the local area.

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Powers to except Municipalities from Provisions of Act.

Power to except municipality from provisions of Act unsuited thereto

158. (1) If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the municipality until again applied thereto by like notification.

(2) While the exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

Miscellaneous.

Saving of Act XI. of 1879.

159. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Powers of Governor-General in Council and of Local Government exercisable from time to time.

160. All powers conferred by this Act on the Governor-General in Council or on the Local Government may be exercised from time to time as occasion requires.

Decision of questions as to whether persons are "inhabitants."

161. If any question arises whether a person or persons of a specified class is or are an inhabitant or inhabitants of a local area within the meaning of this Act, the decision thereon of the Local Government shall be conclusive.

ACT NO. XVIII. OF 1884.

RECEIVED THE G.-G.'S ASSENT ON THE 3RD OCTOBER 1884.

An Act to amend the Law relating to Courts in the Panjáb.

WHEREAS it is expedient to amend the law relating to Courts in the Panjáb; and whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, local extent, and commencement.

1. (1) This Act may be called the Panjáb Courts Act, 1884.

(2) It extends to the territories for the time being under the administration of the Lieutenant-Governor of the Panjáb; and

(3) it shall come into force on the first day of November, 1884.

(4) Any power conferred by this Act to make rules or to issue orders creating territorial divisions, establishing Courts, appointing and posting officers, or fixing the pecuniary or local limits of their jurisdiction, or conferring powers, may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

2. On and from that day the Acts mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column thereof.

Repeal of Acts.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Assistant Commissioner" includes Extra Assistant Commissioner:

(2) "Revenue Courts" means the Court of a Financial Commissioner, of a Commissioner, of a Deputy Commissioner, of an Assistant Commissioner, of a Tahsíldár, or of a Náib Tahsíldár exercising jurisdiction in suits of any of the classes mentioned in section 45:

(3) "small cause" means a suit of the nature cognizable in a Court of Small Causes constituted under Act XI. of 1865, and any other suit not being a suit of any description specified in section 19 of the Presidency Small Cause Courts Act, 1882, which the Chief Court, with the sanction of the Local Government, may direct to be treated as a small cause for the purposes of appeal:

(4) "land" means land assessed or liable to be assessed to the land-revenue, or whereof the land-revenue has been wholly or in part released, compounded for, redeemed, or assigned, and all land the property of Government not within the site of any town or village:

(5) "rent" means whatever is payable by an occupant of land on account of the use or occupation thereof:

(6) "tenant" means any occupant of land liable to pay rent therefor, but does not include an under-proprietor:

(7) "landlord" means any person entitled to receive rent paid by a tenant; and

(8) "value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

CHAPTER II.

THE CHIEF COURT.

Constitution of Chief Court and appointment and tenure of Judges.

4. There shall continue to be a Chief Court consisting of three or more Judges, who shall be appointed by the Governor-General in Council, and shall hold their offices during his pleasure, and of whom one at least shall always be a barrister of not less than five years' standing.

Rank and precedence of Judges of Chief Court.

5. The Judges of the Chief Court shall have rank and precedence according to the seniority of their appointments as such Judges:

Provided that a Judge permanently appointed shall be deemed senior to an officiating Judge.

Civil appellate jurisdiction.

6. The Chief Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Criminal jurisdiction.

7. The Chief Court shall be the highest Court of criminal appeal or revision in the said territories, and shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial.

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Delegation of powers to members of Court.

8. (1) Except as by this Act or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide, in such manner as it thinks fit, for the exercise by one or more of its Judges of any of its powers:

Provided that no decree, sentence, decision, or order of any Court, not being an order within the meaning of the Code of Civil Procedure, shall be reversed or modified by any Judge of the Chief Court sitting alone.

(2) When the Chief Court consists of more than three Judges, it may make rules declaring what number of Judges, not being less than three, shall constitute a full bench of the Court, and may, by these rules, prescribe the mode of determining which Judges shall sit as a full bench, when a full bench sitting becomes necessary.

(3) Subject to the provisions of sub-section (2), the Senior Judge may determine which Judge in each case shall sit alone, and which Judges of the Court shall constitute any bench.

Appeals from original jurisdiction of Chief Court.

9. Except as otherwise provided by any enactment for the time being in force, an appeal from any decree or order made by the Chief Court—

(a) in exercise of its original jurisdiction in cases withdrawn from other Courts under section 25 of the Code of Civil Procedure, or

(b) in exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section,—

shall lie in the cases and in manner following (that is to say):—

(1) if the decree or order is made by a single Judge, the appeal shall lie either to a bench consisting of two other Judges, or to a full bench, as the Court may, by general rule or special order, direct;

(2) if the decree or order is made by a bench of Judges not being a full bench, and the Judges differ in opinion, the appeal shall lie to a full bench.

Rule of decision when Judges differ.

10. Except as otherwise provided by any enactment for the time being in force,

(1) when there is a difference of opinion among the Judges composing any bench of the Chief Court, the decision shall be in accordance with the opinion of the majority of those Judges;

(2) if there is no such majority, then—

(a) if the bench is a full bench, or is exercising original civil jurisdiction, the decision shall be in accordance with the opinion of the Senior Judge;

(b) in other cases, the bench before which the question has arisen shall refer the question to a full bench, and shall dispose of the case in accordance with the decision of the full bench.

Power to refer question to full bench.

11. Any single Judge of the Chief Court, and any bench of Judges of that Court, not being a full bench, may in any case refer for the decision of a full bench any question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence arising before the Judge or bench, and shall dispose of the case in accordance with the decision of the full bench on the question.

Ministerial officers.

12. (1) The Chief Court may appoint a Registrar and Deputy Registrar, and such other ministerial officers as may be necessary for the administration of justice by the Court, and for the exercise and performance of the powers and duties conferred and imposed on it by this Act.

(2) The appointment of the Registrar shall be subject to the sanction of the Local Government.

(3) The officers appointed under this section shall exercise such powers and discharge such duties of a non-judicial or quasi-judicial nature as the Chief Court may direct.

(4) Any such officer may be suspended or dismissed from his office by order of the Chief Court:

Provided that neither the Registrar nor the Deputy Registrar shall be dismissed without the previous sanction of the Local Government.

Superintendence and control of subordinate Courts.

13. The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Chief Court.

Power to make rules.

14. (1) The Chief Court may make rules consistent with this Act and any other enactment for the time being in force—

(*a*) providing for the translation of any papers filed in the Chief Court, and copying or printing any such papers or translations, and requiring from the persons at whose instance or on whose behalf they are filed payment of the expenses thereby incurred;

(*b*) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Panjáb, and regulating the conduct of persons so practising;

(*c*) determining in what cases persons practising in those Courts shall be permitted to address the Court in English;

(*d*) prescribing forms for seals to be used by those Courts;

(*e*) regulating the procedure in cases where any person is entitled to inspect a record of any such Court or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;

(*f*) conferring and imposing on the ministerial officers of the Courts subject to its superintendence such powers and duties of a non-judicial or quasi-judicial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(*g*) prescribing forms for such books, entries, statistics, and accounts as it thinks necessary to be kept, made, or compiled in those Courts, or submitted to any authority;

(*h*) providing for the inspection of those Courts and the supervision of the working thereof; and

(*i*) regulating all such matters as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of those Courts, and maintaining proper discipline among those officers.

(2) A rule made under clause (*a*), (*b*), (*c*), (*f*), (*g*), (*h*), or (*i*), shall not take effect until it has been sanctioned by the Local Government, and has been published in the official Gazette.

(3) Whoever breaks any rule made under clause (*b*) shall be punished with a fine which may extend to fifty rupees.

Registers, books, accounts, and statements to be kept and furnished by Chief Court.

15. (1) The Chief Court shall keep such registers, books, and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Local Government such of those registers, books, and accounts, and such statements of the work done in the Court, as may be required by the said Government.

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(2) The Chief Court shall also comply with such requisitions as may be made by the Governor-General in Council, or by the Local Government, for certified copies of, or extracts from, the records of the Chief Court and the Courts subordinate thereto.

Procedure of Chief Court in exercise of civil jurisdiction.

16. (1) The Chief Court, when sitting as a Court of civil judicature, shall take evidence and record judgments and orders in such manner as it, by rule, directs, and may frame forms for any proceeding in the Court in the exercise of its civil jurisdiction.

(2) The following provisions of the Code of Civil Procedure shall not apply to the Chief Court in the exercise of its original civil jurisdiction, namely, sections 119, 182 to 185 (both inclusive), 187, 189 to 191 (both inclusive), 192 (so far as it relates to the manner of taking evidence), 198, 200 to 204 (both inclusive), and so much of section 409 as relates to the making of a memorandum.

(3) Section 579 of the said Code shall not apply to the Chief Court in the exercise of its appellate jurisdiction.

CHAPTER III.

THE SUBORDINATE CIVIL COURTS.

Classes of Courts.

Classes of Courts.

17. Besides the Chief Court, the Courts of Small Causes established under Act XI. of 1865, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts (namely):—

(*a*) the Divisional Court;
(*b*) the Court of the District Judge;
(*c*) the Court of the Subordinate Judge;
(*d*) the Court of the Munsif.

Territorial Divisions.

Civil divisions and districts.

18. (1) For the purposes of this Act the Local Government shall divide the territories under its administration into civil divisions, and each civil division into civil districts.

(2) The Local Government may alter the limits or the number of these divisions and districts.

Divisional and District Courts.

Establishment of Divisional Courts.

19. (1) The Local Government shall appoint as many persons as it thinks necessary to be Divisional Judges, and shall for each civil division establish a Divisional Court consisting of one or more such Judges.

(2) The Local Government may, where a Divisional Court consists of more than one Judge, by general rule or special order determine which of them shall be deemed to be the senior.

Establishment of District Courts.

20. The Local Government shall appoint as many persons as it thinks necessary to be District Judges, and shall post one such person to each district as District Judge of that district:

Provided that the same person may, if the Local Government thinks fit, be appointed to be District Judge of two or more districts.

Distribution of business in Divisional Court.

21. The Chief Court may, subject to the provisions of this Act and any other enactment for the time being in force, make rules to provide for the exercise of any of the powers of a Divisional Court consisting of more than one Judge by one or more Judges of the Court:

Provided that no decree, decision, or order of any Court, not being an order within the meaning of the Code of Civil Procedure, shall be reversed or modified by a single Judge of a Divisional Court consisting of more than one Judge.

Original jurisdiction of Divisional and District Courts in suits.

22. Except as otherwise provided by any enactment for the time being in force, the Divisional Court and the Court of the District Judge shall have jurisdiction in original civil suits without limit as regards the value.

District Court to be principal Civil Court of original jurisdiction.

23. Except as otherwise provided by any enactment for the time being in force, the Court of the District Judge shall be deemed to be the District Court or principal Civil Court of original jurisdiction in the district:

Provided that—

(*a*) for the purposes of the Indian Divorce Act, the Divisional Court shall be deemed to be the District Court for all districts comprised in the division; and

(*b*) the Local Government may direct that the Divisional Court shall, for any other purpose, be deemed to be the District Court or principal Civil Court of original jurisdiction for any district comprised in the division.

Subordinate Judges and Munsifs.

Appointment of Subordinate Judges.

24. The Local Government may appoint as many persons as it thinks necessary to be Subordinate Judges.

Appointment of Munsifs.

25. (1) The Local Government may fix the number of Munsifs to be appointed, and, when there is any vacancy in that number, the Chief Court may, subject to the rules (if any) made under sub-section (2), appoint such person to the same as it thinks fit.

(2) The Chief Court may, with the previous sanction of the Local Government, make rules as to the qualifications of persons to be appointed Munsifs.

Pecuniary limits of jurisdiction of Subordinate Judges and Munsifs.

26. (1) The jurisdiction to be exercised in original civil suits as regards the value by any person appointed to be a Subordinate Judge or Munsif shall, in the case of a Subordinate Judge, be determined by the Local Government, and, in the case of a Munsif, by the Chief Court, either by including him in a class or grade, or otherwise as it thinks fit.

(2) The jurisdiction in the case of a Subordinate Judge may be without limit, but in the case of a Munsif shall not extend to suits the value of which exceeds one thousand rupees.

Local limits of their jurisdiction.

27. (1) The local limits of the jurisdiction of a Subordinate Judge shall be such as the Local Government may define.

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(2) The local limits of the jurisdiction of a Munsif shall be such as the Chief Court may define.

(3) When the Local Government posts a Subordinate Judge, or the Chief Court posts a Munsif, to a district, the local limits of the district shall, in the absence of any direction to the contrary, be deemed to be the local limits of his jurisdiction.

Special Judges and Benches.

28. (1) The Local Government may confer on any person all or any of the powers conferable under this Act on a Subordinate Judge or Munsif with respect to particular classes of cases, or with respect to cases generally in any local area, and may withdraw, or suspend the exercise of, any powers so conferred.

(2) The Local Government may direct any uneven number of persons invested with powers of the same description and exercisable within the same local area under this section to sit together as a bench; and those powers shall, while the direction remains in force, be exercised by the bench so constituted, and not otherwise.

(3) The decision of the majority of the members of a bench constituted under this section shall be deemed to be the decision of the bench.

(4) Persons on whom powers are conferred under this section shall be called Special Judges, and such persons and the benches constituted under this section shall be deemed, for the purposes of this Act, to be Subordinate Judges or Munsifs, as the Local Government may direct.

Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Court.

29. (1) The Chief Court may, by order, authorize any District Court to transfer to a Subordinate Judge or Munsif under its control any of the following proceedings or any class of such proceedings specified in the order, and then pending or thereafter instituted before the District Court (that is to say):—

(*a*) applications for certificates under Act XXVII. of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*);

(*b*) proceedings under Act XL. of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) or Act IX. of 1861 (*to amend the law relating to Minors*).

(2) The District Court may withdraw any proceedings so transferred, and may either itself dispose of them, or, with the previous sanction of the Chief Court, transfer them to any other Subordinate Judge or Munsif under its control.

(3) All proceedings so transferred shall be disposed of by the Subordinate Judge or Munsif (as the case may be) subject to the rules applicable to like cases when disposed of by the District Court.

Small Cause Jurisdiction.

Power to confer Small Cause Court jurisdiction.

30. The Local Government may confer, within such local limits as it thinks fit, upon any District Judge, Subordinate Judge, or Munsif, the jurisdiction of a Judge of a Court of Small Causes under Act XI. of 1865 for the trial of suits cognizable by such Courts up to such value, not exceeding five hundred rupees, as it thinks fit, and may withdraw any jurisdiction so conferred.

Suspension and Removal.

Suspension and removal.

31. (1) Any Divisional Judge, District Judge, or Subordinate Judge, may be suspended or removed from office by the Local Government.

(2) Any Munsif may, subject to the control of the Local Government, be suspended or removed from office by the Chief Court.

Valuation of Suits.

Valuation of suits.

32. When the subject-matter of suits of any class is such that in the opinion of the Chief Court it does not admit of being satisfactorily valued, the Chief Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for all or any of the purposes of this Act, be treated as if their subject-matter were of such value as the Chief Court thinks fit to specify in this behalf.

Administrative Control.

Controlling powers of Divisional and District Courts.

33. (1) Subject to the general superintendence and control of the Chief Court, every Divisional Court shall control all other Civil Courts in the division.

(2) Subject as aforesaid and to the control of the Divisional Court, every District Court shall control all other Civil Courts in the district.

Power of Divisional Court to transfer business.

34. (1) Every Divisional Court may exercise, as regards the Courts under its control, the same powers of withdrawal, trial, and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court.

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

Power to distribute business.

35. Notwithstanding anything contained in the Code of Civil Procedure, every Divisional Court and District Court may, by written order, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit:

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Ministerial officers of Subordinate Courts.

36. (1) The ministerial officers of the Divisional and District Courts, and Courts of Small Causes, shall be appointed, and may be suspended and dismissed, by the Judges of those Courts respectively.

(2) The ministerial officers of all Courts controlled by a District Court, other than Courts of Small Causes, shall be appointed, and may be suspended and dismissed, by the District Court.

(3) Every appointment under this section shall be subject to such rules as the Local Government prescribes in this behalf, and, in dealing with any matter under this section, a District Court or a Judge of a Court of Small Causes shall act subject to the control of the Divisional Court.

Power to fine ministerial officers.

37. (1) A Divisional or District Court, or any Court under the control of a District Court, may fine, in an amount not exceeding one month's salary, any ministerial officer of the Court for misconduct or neglect in the performance of his duties.

(2) The District Court, subject to the general control of the Divisional Court, may, on appeal or otherwise, reverse or modify an order made under sub-section (1) by any Court under its control other than a Court of Small

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Causes, and may, of its own motion, fine, up to the amount of one month's salary, any ministerial officer of any Court under its control other than a Court of Small Causes.

Delegation of District Judge's powers.

38. A District Court may, with the previous sanction of the Local Government, delegate to any Subordinate Judge in the district the powers conferred on a District Court by sections 33, 35, and 36 of this Act, and section 25 of the Code of Civil Procedure, to be exercised by the Subordinate Judge in any specified portion of the district subject to the control of the District Court.

CHAPTER IV.

APPELLATE JURISDICTION IN CIVIL CASES.

First appeals to whom to lie.

39. (1) Appeals from the decrees of a Munsif in small causes shall, when such appeals are allowed by law, and the value of the suit does not exceed five hundred rupees, lie to the District Judge.

(2) Appeals from the decrees of a District or Subordinate Judge in original suits, when the value of the suit exceeds five thousand rupees, and appeals from the decrees of the Divisional Court in original suits, shall, when such appeals are allowed by law, lie to the Chief Court.

(3) Appeals from decrees in original suits, not hereinbefore or by any other enactment for the time being in force provided for, shall, when such appeals are allowed by law, lie to the Divisional Court.

Further appeal from Divisional Court.

40. A further appeal shall lie to the Chief Court in the following cases from an appellate decree of a Divisional Court on any ground which would be a good ground of appeal if the decree had been passed in an original suit, namely :—

(*a*) if the value of the suit exceeds five hundred rupees ; or the decree involves directly some claim to, or question respecting, property of like value ;

(*b*) if the Divisional Court consists of a single Judge, and the decree varies or reverses the decree of the Court below ;

(*c*) if in a Divisional Court consisting of more than one Judge the appeal is heard by two or more Judges, and there is not a majority of those Judges concurring in the decree passed by the Divisional Court ;

(*d*) if on the application of any party a Judge of the Divisional Court certifies that there is a question of law or custom or of general interest involved, and that the case is, in his opinion, of sufficient importance to justify a further appeal :

Provided that—

(1) an application under clause (*d*) shall not be received after the expiration of thirty days from the date on which the decree of the Divisional Court is passed, unless the applicant satisfies the Judge that he had sufficient cause for not presenting it within that period ; and

(2) no further appeal shall lie in any small cause when the value of the suit does not exceed five hundred rupees.

Appellate decision of District or Divisional Court otherwise final.

41. Subject to the provisions of section 40 of this Act and sections 595 and 622 of the Code of Civil Procedure, a decree of the District or Divisional Court passed in appeal shall be final.

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Power to confer appellate jurisdiction on Subordinate Judge.

42. (1) The Local Government may confer on a Subordinate Judge the powers of a District Judge for the purpose of hearing appeals from the Courts of Munsifs in any local area, and withdraw those powers.

(2) A Subordinate Judge shall, for purposes connected with the exercise of powers so conferred, be deemed to be a District Judge.

Period of limitation.

43. (1) The period of limitation for an appeal under section 39 or section 40 shall run from the date of the decree appealed against, and shall be as follows, that is to say:—

(*a*) when the appeal lies to the District or Divisional Court—sixty days;

(*b*) when the appeal lies to the Chief Court—ninety days.

(2) In computing these periods of sixty and ninety days, and in all respects not herein specified, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877:

Provided that, in computing the period of ninety days for an appeal under section 40, clause (*d*), the time during which the application under that clause has been pending shall be excluded.

References to Chief Court under section 617 of Code of Civil Procedure.

44. For the purposes of section 617 of the Code of Civil Procedure, every appeal to a Divisional Court under this chapter shall, except when the value of the suit exceeds five hundred rupees, be deemed to be an appeal in which the decree is final.

CHAPTER V.

REVENUE COURTS.

Certain classes of suits cognizable by Revenue Courts only.

45. Suits of any of the classes comprised in the following groups instituted on and after the date on which this Act comes into force shall be instituted, heard, and determined in Revenue Courts and not otherwise:—

First Group.

(*a*) Suits by tenants to establish a claim to a right of occupancy.

(*b*) Suits by landlords under section 6 of the Panjáb Tenancy Act, 1868, to prove that a tenant presumed to have a right of occupancy under that section has no such right.

(*c*) Suits for enhancement or abatement of rent under Chapter III. of the same Act.

(*d*) Suits for ejectment of a tenant.

(*e*) Suits under section 25 of the said Act to contest liability to be ejected when notice of ejectment has been served.

Second Group.

(*f*) Suits for arrears of rent on account of land, or of any payments due on account of rights of pasturage, forest-rights, fisheries, or the like.

(*g*) Suits for the recovery of any over-payment of rent.

(*h*) Suits by lambardárs for arrears of land-revenue, payable through them by the co-sharers, or for village-expenses or other dues for which the co-sharers may be responsible to the lambardár.

(*i*) Suits by co-sharers for their share of the profits of an estate or part thereof after payment of the land-revenue and village-expenses, or for a settlement of accounts.

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(*j*) Suits by assignees of land-revenue for arrears of revenue due to them as such.

(*k*) Suits by superior proprietors for arrears of revenue due to them as such.

(*l*) Suits under section 9 of the Specific Relief Act to recover possession of land.

(*m*) Suits to determine disputes regarding boundaries of land which have been fixed by a Court or Revenue-officer:

Provided that the Local Government may, after consulting the Chief Court, direct that suits of any of these classes arising in any local area shall be heard and determined by the Civil Courts and not by the Revenue Courts, and cancel any such direction.

Original jurisdiction of Deputy Commissioner and his subordinates in suits.

46. (1) A Deputy Commissioner shall have power to try suits of any of the classes mentioned in section 45.

(2) An Assistant Commissioner or Tahsíldár shall have power to try suits of such classes mentioned in the second group of the same section, and within such limits, as regards value, as may be determined by the Local Government either by including him in a class or grade, or otherwise as it thinks fit.

(3) The Local Government may invest a Náib Tahsíldár with power to try suits of the classes mentioned in section 45, clauses (*f*), (*g*), (*h*), (*i*), and (*k*), when the value does not exceed one hundred rupees.

(4) The powers conferred by this section shall be exercised within such local limits as the Local Government may direct, and, in the absence of any such direction, throughout the district or tahsíl to which the officer is posted.

Appeals from original decrees.

47. An appeal shall lie from a decree passed in an original suit of any of the classes mentioned in section 46 as follows, namely:—

(*a*) when the decree is passed by a Deputy Commissioner, and the value of the suit exceeds five thousand rupees—to the Financial Commissioner;

(*b*) when the decree is passed by a Deputy Commissioner in a suit of the first group, and the value of the suit does not exceed five thousand rupees, or in a suit of the second group, and the value of the suit exceeds one hundred rupees, but does not exceed five thousand rupees—to the Commissioner;

(*c*) when the decree is passed by an Assistant Commissioner, Tahsíldár, or Náib Tahsíldár—to the Deputy Commissioner:

Provided that—

(1) no appeal shall lie from a decree passed in a suit of the class mentioned in section 45, clause (*l*);

(2) the Local Government may direct that no appeal shall lie from the decree of any Assistant Commissioner or class or grade of Assistant Commissioners designated by it in this behalf in any suit of the classes specified in clauses (*f*) to (*k*), both inclusive, of section, 45, unless—

(*a*) the value of the suit exceeds such sum, not being more than one hundred rupees, as the Local Government may fix in this behalf, or

(*b*) the decree has decided a question of title to land or to some interest in land as between parties having conflicting claims thereto, or as to the amount of some rent or revenue or other payment to which there is a recurring claim, or as to the principle on which revenue, profits, or village-expenses or other dues should be apportioned.

(3) The Local Government may direct that appeals shall lie from the decrees of an Assistant Commissioner or any class of Assistant Commissioners as if those decrees were passed by a Deputy Commissioner.

48. A further appeal shall lie from a decree passed on appeal in a suit of any of the classes mentioned in section 45 on any ground which would be a good ground of appeal if the decree had been passed in an original suit as follows, namely :—

Further appeals from appellate decrees.

(*a*) when the decree is passed by a Commissioner in a suit of the first group, and reverses or modifies the original decree—to the Financial Commissioner;

(*b*) when the decree is passed by a Deputy Commissioner, and the value of the suit exceeds five thousand rupees—to the Financial Commissioner;

(*c*) when the decree is passed by a Deputy Commissioner, and the value of the suit exceeds one hundred rupees, but does not exceed five thousand rupees—to the Commissioner.

No appeals except under the foregoing sections.

49. Except as provided by the foregoing sections, no appeal shall lie from a decree passed under this chapter.

50. (1) The period of limitation for an appeal under section 47 or 48 shall run from the date of the decree appealed against, and shall be as follows, that is to say :—

Limitation of appeals under this chapter.

(*a*) when the appeal lies to the Court of the Deputy Commissioner or the Commissioner—sixty days;

(*b*) when the appeal lies to the Financial Commissioner—ninety days.

(2) In computing those periods of sixty and ninety days, and in all respects not herein specified, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

51 (1) The Local Government may confer on any person all or any of the powers, original or appellate, of a Financial Commissioner, Commissioner, or Deputy Commissioner under this chapter, and may withdraw the powers so conferred.

Power to confer powers of Financial Commissioner, Commissioner, and Deputy Commissioner.

(2) Any person on whom powers are conferred under this section shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall, for all purposes connected with the exercise of the same, be deemed a Financial Commissioner, Commissioner, or Deputy Commissioner, as the case may be.

52. (1) The Local Government may, if it thinks fit, appoint a second Financial Commissioner, who shall hold his office during the pleasure of the Local Government.

Appointment of second Financial Commissioner.

(2) When a second Financial Commissioner is appointed, the Local Government may make rules as to the distribution of business between the two Financial Commissioners, and, until such rules are made and subject to such rules, the Financial Commissioner who is senior in respect of his appointment as such may transfer such business as he thinks fit to the other Financial Commissioner for disposal, and may withdraw and himself dispose of any business so transferred and not disposed of.

53. (1) The Local Government may, with the previous sanction of the Governor-General in Council, make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this chapter for which a procedure is not prescribed thereby; and may, by any such rule, direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue Courts.

Procedure of Revenue Courts how to be regulated.

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(2) Until such rules are made, and subject to such rules when made and to the provisions of this Act,—

(a) the provisions of the Code of Civil Procedure shall, so far as applicable, apply to all proceedings whether before or after decree in cases under this chapter; and

(b) the Court of the Financial Commissioner shall, in respect of such cases, be deemed to be the High Court within the meaning of the said Code, and shall exercise, as regards the Courts under its control, all the powers of a High Court under the said Code.

Power to refer party to Civil Court.

54. (1) If, in any suit pending before a Revenue Court exercising original appellate or revisional jurisdiction under this chapter, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Revenue Court (if any) to the control of which it is immediately subject, by order in writing, require any party to the suit to institute, within such time as it may fix in this behalf, a suit in the Civil Court with a view to obtaining a decision on the question, and, if he fails to comply with the requisition, may, if it thinks fit, decide the question against him.

(2) If he institutes such a suit, the Revenue Court shall dispose of the suit pending before it in accordance with the final decision of the Civil Court of first instance or appeal (as the case may be).

Power for Financial Commissioner to refer question to Chief Court.

55. (1) When a question of the description mentioned in section 617 of the Code of Civil Procedure arises before the Financial Commissioner in the exercise of any of his powers under this chapter, he may refer the question for the decision of the Chief Court in manner prescribed by that section:

Provided that he shall not be bound to express any opinion thereon.

(2) On a reference being made under sub-section (1), the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the provisions of sections 618, 619, and 620 of the said Code, and the Chief Court may return for amendment the statement received from the Financial Commissioner if it is not sufficient to enable the Court to determine the question referred.

Administrative Control.

Controlling powers of Financial Commissioner, Commissioner, and Deputy Commissioner.

56. (1) The general superintendence and control over all other Revenue Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Financial Commissioner.

(2) Subject to the general superintendence and control of the Financial Commissioner, every Commissioner shall control all other Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner, every Deputy Commissioner shall control all other Revenue Courts in his district.

Power to transfer business.

57. Every Commissioner and Deputy Commissioner may exercise, as regards the Courts under his control, the same powers of withdrawal, trial, and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court.

58. Every Commissioner and Deputy Commissioner may, by written order, direct that any business cognizable under this chapter by his Court and the Courts under his control shall be distributed among those Courts in such manner as he thinks fit:

Power to distribute business.

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

59. (1) The ministerial officers of the Courts of the Financial Commissioner, Commissioner, and Deputy Commissioner, shall be appointed, and may be suspended and dismissed, by the Judges of those Courts respectively.

Ministerial officers of Courts.

(2) The ministerial officers of all Courts controlled by a Deputy Commissioner shall be appointed, and may be suspended and dismissed, by the Deputy Commissioner.

(3) Every appointment under this section shall be subject to such rules as the Local Government prescribes in this behalf; and in dealing with any matter under this section a Commissioner shall act subject to the control of the Financial Commissioner, and a Deputy Commissioner subject to the control of the Commissioner.

60. (1) A Commissioner or Deputy Commissioner, and the presiding officer of every Court under the control of a Deputy Commissioner, may fine, in an amount not exceeding one month's salary, any ministerial officer of his Court for misconduct or neglect in the performance of his duties.

Power to fine ministerial officers.

(2) The Deputy Commissioner, subject to the general control of the Commissioner, may, on appeal or otherwise, reverse or modify any order made under sub-section (1) by the presiding officer of any Court under his control, and may, of his own motion, fine, up to the amount of one month's salary, any ministerial officer of any such Court.

61. A Deputy Commissioner may, with the previous sanction of the Local Government, delegate to any Assistant Commissioner in the district the powers conferred on Deputy Commissioners by sections 56, 57, 58, and 59, to be exercised by the Assistant Commissioner in any specified portion of the district subject to the control of the Deputy Commissioner.

Delegation of Deputy Commissioner's powers

CHAPTER VI.

SETTLEMENT COURTS.

62. (1) The Local Government may, by notification in the official Gazette, declare that a settlement of land-revenue is in progress in any local area, and invest any officer making or controlling the settlement with all or any of the powers of any Court constituted under this Act for the purpose of trying all or any specified class of suits and appeals relating to land, or the rent, revenue, or produce of land, arising in the local area.

Power to invest Settlement-officers with powers of Civil or Revenue Courts in certain cases.

(2) The publication of a notification under this section shall be conclusive evidence that a settlement of land-revenue is in progress in the local area to which the notification refers.

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(3) The Local Government may cancel any such notification.

(4) While the notification continues in force, the powers specified in it shall be exercised by the officers so invested, and not otherwise:

Provided as follows:—

(*a*) the Local Government may, by order published in the official Gazette, direct that any jurisdiction with which any officer has been invested by the notification shall be exercised solely by the Courts by which the jurisdiction would have been exercised if the notification had not been published; and

(*b*) any cases pending before any officer under the notification when it is cancelled may, notwithstanding the cancellation, be disposed of by him as if it continued in force, unless the Local Government directs (as it is hereby empowered to do) that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the notification had not been published.

Power to alter subordination of Courts for purposes of section 62.

63. For the purposes of section 62 the Local Government may, notwithstanding anything in this Act, from time to time direct that any of the Courts mentioned in this Act (except the Chief Court and the Court of the Financial Commissioner) shall, in respect of any specified class of cases, be subordinate to, or subject to the control or superintendence of, any authority other than those specified in this Act.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Mode of appointment and conferring powers.

64. Except as otherwise provided by this Act, the Local Government may, when it is empowered by this Act to make any appointment or confer any powers, appoint, or confer the powers on, any person specially by name or by virtue of his office.

Powers exercisable from time to time.

65. All powers conferred by this Act may be exercised from time to time, as occasion requires.

Place of sitting of Courts.

66. (1) The Local Government may fix the place or places at which any Court under this Act is to be held.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Court under this Act may be held at any place within the local limits of its jurisdiction.

Vacations.

67. (1) Subject to the approval of the Local Government, the Chief Court shall prepare a list of days to be observed in each year as holidays in the Chief Court and the Civil Courts subordinate thereto, and the Financial Commissioner shall prepare a like list for his Court and the Courts subordinate thereto.

(2) Every such list shall be published in the official Gazette.

Pending proceedings.

68. (1) All cases or proceedings pending in the Chief Court on the day when this Act comes into force shall be disposed of as if this Act had not been passed.

(2) All cases or proceedings pending in any Civil Court subordinate to the Chief Court on that day shall be disposed of as if this Act had not been passed:

Provided that the Chief Court may direct that any such cases or proceedings shall be transferred for disposal to any Civil Court established under this Act which would have had jurisdiction if it had been in existence when the cases or proceedings were instituted.

(3) In the case of an appeal pending on the said day, the following shall, for the purposes of sub-section (2), be deemed to be the Court which would have had jurisdiction as aforesaid, namely :—

(*a*) when the value of the suit exceeds five thousand rupees,—the Chief Court ;

(*b*) when the appeal is one in a small cause, and is pending before the Deputy Commissioner or an officer invested with the appellate powers of a Deputy Commissioner, and the value of the suit does not exceed five hundred rupees,—the District Court ;

(*c*) in other cases,—the Divisional Court.

Appeals after Act comes into force against decrees, &c., passed before.

69. Appeals from decrees, orders, and decisions passed by Civil Courts, and not appealed against before the date on which this Act comes into force, shall lie and be disposed of as if this Act had not been passed and not otherwise :

Provided that the Courts to which such appeals shall lie shall be as follows :

(*a*) when the appeal would, before the said date, have lain to the Chief Court, or the value of the suit exceeds five thousand rupees,—the Chief Court ;

(*b*) in small causes when the value of the suit does not exceed five hundred rupees, and the appeal would, before the said date, have lain to the Deputy Commissioner, or an officer exercising the appellate powers of a Deputy Commissioner,—the District Court ;

(*c*) in other cases,—the Divisional Court.

Modification of section 622 of Civil Procedure Code.

70. Section 622 of the Code of Civil Procedure, in its application to the territories to which this Act extends, shall be read as if the words "illegally or" were omitted, and for the purposes of that section no appeal shall be deemed to lie from the appellate decree of a Divisional Court to the Chief Court when the case does not fall under clause (*a*), clause (*b*), or clause (*c*) of section 40, and an application under clause (*d*) of that section has been refused.

Amendment of the first schedule annexed to the Court-fees Act, 1870.

71. In the first schedule annexed to the Court-fees Act, 1870, after No. 12, the following shall be inserted :—

Number.		Proper Fee.
13. Application to the Chief Court or the Court of the Financial Commissioner of the Panjáb for the exercise of its revisional jurisdiction under section 622 of the Code of Civil Procedure.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees	Two rupees.
	When such amount or value exceeds twenty-five rupees.	The fee leviable on a memorandum of appeal.

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Refund of fee paid on application for revision.

72. If the Court, on an application under section 622 of the Civil Procedure Code, on which a fee has been paid under the last preceding section, sets aside or modifies the decree or order of a Subordinate Court, or remands the case for a fresh decision, it may grant to the applicant a certificate authorizing him to receive back from the Collector the full amount of fee paid on the application, or any smaller amount which, with regard to the circumstances of the case, it may think proper to order to be refunded.

Saving of certain appointments, rules, and forms, notifications, powers, and orders.

73. All appointments made under sections 5 and 22 of Act XVII. of 1877, directions given under section 23, rules and forms made and prescribed under sections 19, 26, and 27, and notifications published, powers conferred, and orders issued under section 49, of the same Act, shall, so far as may be, be deemed to have been respectively made, given, prescribed, published, conferred, and issued under this Act.

Amendment of Act X. of 1870, section 3.

74. In the Land Acquisition Act, 1870, section 3, before the words "British Burma," in both places where they occur, the words "the Panjáb" shall be inserted.

Amendment of Act XXVIII. of 1868, section 42.

75. In the Panjáb Tenancy Act, 1868, section 42, for the words "and thirty-one" the words "thirty-one and forty" shall be substituted.

THE SCHEDULE.

ACTS REPEALED.

(See section 2.)

Number and year.	Title of Act.	Extent of repeal.
Act IV. of 1869 ...	The Indian Divorce Act	So much of section 3 as defines "District Judge" in the Panjáb to mean the "Commissioner of a Division."
Act XIV. of 1875 ...	The Panjáb Judicial Administration Act, 1875.	So far as it relates to civil or criminal judicial powers.
Act XVII. of 1877 ...	The Panjáb Courts Act, 1877.	The whole, except section eighteen.

ACT NO. XIX. OF 1884.

RANGOON WATER-WORKS.

RECEIVED THE G.-G.'S ASSENT ON THE 10TH OCTOBER 1884.

An Act to confer powers and impose duties on the Municipal Committee for the Town of Rangoon in respect to the construction and maintenance of Water-works and the supply of Water in that Town.

WHEREAS a scheme has been settled and to some extent carried out for the construction and maintenance of water-works and the supply of water to the Town of Rangoon by the Municipal Committee for that town;

And whereas it is necessary for the purposes of the scheme that the Royal Lake at Rangoon, and all existing tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes, and works, and all land, bridges, buildings, engines, works, materials, and things connected therewith or appertaining thereto, should vest in, and be under the control of, the Municipal Committee for that town;

And whereas it is expedient that powers should be conferred and duties imposed upon the said Municipal Committee with respect to the construction and maintenance of the proposed water-works and the supply of water to the Town of Rangoon, and otherwise in relation thereto, and that all acts already done by the said Municipal Committee which could have been lawfully done if this Act had been in force should be validated;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (1) This Act may be called the Rangoon water-works Act, 1884; and

(2) It shall come into force on such date as the Chief Commissioner may, by notification in the official Gazette, fix in this behalf.

(3) All acts done before the passing of this Act which could have been lawfully done if this Act had been in force shall be deemed to have been lawfully done.

Definition.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "town" means the local area for the time being comprised within the municipal limits of the Town of Rangoon:

(2) "street" means any street, road, thoroughfare, passage, or place over which the public have a right of way; and includes the surface-soil and sub-soil of any such street, and the footway and drains of any such street, and any bridge, culvert, or causeway forming part of any such street:

(3) "owner" includes—

(*a*) the person who is for the time being entitled to the rent of the house or land in respect of which the word is used, and who is not liable to pay rent for that house or land to any other person;

(*b*) an agent of that person; and

(*c*) a trustee for that person:

(4) "house" includes schools; also factories and other buildings in which persons are employed:

1884. Act 19.

(5) "water-works" includes all lakes, streams, tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes, and works, and all land, bridges, buildings, engines, works, materials, and things for supplying, or used for supplying, water under this Act to the Town of Rangoon:

(6) "the Committee" means the Municipal Committee for the Town of Rangoon:

(7) "water-rent" includes any rent, reward, or payment to be made to the Committee in connection with the supply of water under this Act, but does not include the water-tax leviable under the Burma Municipal Act, 1884: and

(8) a "supply of water for domestic purposes" does not include a supply of water for cattle, or for horses, or for washing carriages, where the cattle, horses, or carriages, are kept for sale or hire or by a common carrier, or a supply for any trade, manufacture, or business, or for watering gardens, or for fountains, or for any ornamental purpose.

CHAPTER II

VESTING OF PROPERTY.

Vesting of Royal Lake and cisterns, &c., in Committee.

3. There shall vest in, and be under the control of, the Committee, freed and discharged of and from all manner of rights, titles, privileges, or claims whatsoever of any other person—

(*a*) the Royal Lake at Rangoon; and

(*b*) all existing tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes, and works, used or intended to be used for supplying water to the public in the town, and all land, bridges, buildings, engines, works, materials, and things connected therewith, or appertaining thereto:

Provided as follows:—

(1) Any person may at any time, subject to such rules as the Committee make in this behalf, row, sail, or fish on or in the waters of the Royal Lake:

(2) Nothing in this section shall affect the land adjacent to the Royal Lake and known as the Dalhousie Park, but that land shall be preserved as a public park for the use of the public.

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WATER-WORKS.

Duty of Committee to construct works for supply of water.

4. Subject to rules to be made under this Act by the Chief Commissioner, the Committee shall cause such mains and pipes to be laid, and such water-works to be constructed, as may be necessary for the supply of pure and wholesome water sufficient for the use of the inhabitants for domestic purposes in all parts of the town:

Provided that the Chief Commissioner may, by order in writing, from time to time exempt any part of the town from the provisions of this section, and cancel any such exemption.

Duty of Committee to erect stand-pipes.

5. The Committee shall cause such stand-pipes or pumps to be erected, at such intervals as the Chief Commissioner, by rules made under this Act, prescribes, in all the chief streets in those parts of the town in which mains or pipes have been laid under the last foregoing section.

Power for Committee to execute works.

6. The Committee may, for the purpose of constructing or maintaining any water-works for the supply of water to the town, enter upon any land and take levels of the same, and set out such parts thereof as they think necessary, and dig and break up the soil of the land:

Provided that, in the exercise of these powers, the Committee shall do as little damage as may be, and shall make full compensation to all persons interested for all damage sustained by them through the exercise of these powers, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.

Power for Committee to break up streets.

7. The Committee may open and break up the soil and pavement of the streets, and lay down and place pipes, conduits, and other works and engines, and, from time to time, repair, alter, or remove the same, and do all other acts which the Committee, from time to time, deem necessary for supplying water to the town.

CHAPTER IV.

Supply of Water.

A.—Supply of Water for domestic purposes to Occupiers of Houses or Lands.

Right of occupier to certain supply of water for domestic purposes.

8. (1) Every occupier of a house or land situate in a part of the town not exempted under the proviso to section 4 shall be entitled to have free of further charge, through the communication-pipes constructed as hereinafter provided, a supply to the house or land of fifteen hundred gallons of pure and wholesome water for domestic purposes for every rupee paid to the Committee for water-tax on account of the house or land.

(2) If the Committee have reason to believe that the occupier of any house or land consumes more water than he is entitled to have free of further charge under this section, they may provide a water-metre at their own expense, and attach it to such part of the communication-pipes as they think fit.

(3) If the occupier consumes any water over and above the quantity to which he is entitled free of further charge under this section, he shall pay for it at the rate of one rupee for every fifteen hundred gallons, or part of fifteen hundred gallons.

Right of occupier paying water-tax to have water brought into his house or land.

9. Every occupier of a house or land who is entitled to a supply of water free of further charge under the last foregoing section shall, subject to the provisions of this Act, be entitled to have communication-pipes laid down from the service-pipes of the Committee, for bringing into his house or land a reasonable supply of water:

Provided that the Committee may cut off the supply of water to any house or land while the house or land is unoccupied.

1884.
Act 19.

Construction of communication-pipes.

10. The communication-pipes leading the water from the service-pipes of the Committee into the house or land of any occupier, and the pipes and works within the house connected therewith, shall be of such character, dimensions, and material as the Committee fix and approve, and shall be constructed at the expense of the person requiring them.

Inspection of works, pipes, and fittings before connection with service-pipes.

11. (1) Before a connection for the supply of water from the service-pipes of the Committee to any house or land is sanctioned by the Committee, the Committee shall cause all the works, pipes, and fittings within the house or land to be inspected by such officer as the Committee appoint in this behalf.

(2) The cost of an inspection under this section shall be payable in advance by the person applying for the connection, at such rate as the Committee, at a special meeting, from time to time, direct.

(3) Until the officer has certified that the works, pipes, and fittings have been executed and put up in a satisfactory manner, a connection with the Committee's service-pipes shall not be permitted.

Connection with service-pipes to be executed only by an officer of the Committee.

12. (1) The connection with the service-pipes, of the Committee, and the laying of communication-pipes under any street, shall be executed by an officer of the Committee authorized in that behalf.

(2) The expense of making the connection shall be payable in advance by the person applying for the same, at such rate as the Committee, at a special meeting, from time to time, direct.

Power for officer of Committee to enter premises.

13. (1) The officer authorized in that behalf by the Committee may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works, and fittings connected with the supply of water, and to ascertain if there is any waste or misuse of the water.

(2) If any such officer at any such time is refused admittance into any such house or land for the purposes aforesaid, or is prevented from making such examination as aforesaid, the Committee may forthwith turn off or cut off the water from the house or land.

Power for Committee to turn off water when pipes are out of repair.

14. If any pipes, works, or fittings connected with the supply of water to any house or land are at any time found, on examination by any officer of the Committee authorized in that behalf, to be out of repair to such an extent as to cause any waste of water, the Committee may, after the expiry of twenty-four hours from the service of notice in writing to this effect, cause the water to be turned off or cut off from the house or land, and may recover the expense incurred for turning off or cutting off the water from the occupier of the house or land.

B.—Supply for gratuitous use in Stand-pipes.

Duty of Committee to supply water for gratuitous use in stand-pipes.

15. The Committee shall cause a sufficient quantity of pure and wholesome water to be supplied for the gratuitous use of the inhabitants of the town for domestic purposes in the stand-pipes to be erected by the Committee under section 5.

C.—Supply of water for extinguishing Fires and cleansing Sewers, and Streets.

Duty of Committee to fix fire-plugs in mains.

16. The Committee shall fix and renew and keep in effective order such fire-plugs in such of the mains and other pipes laid by them, and shall deposit keys of the fire-plugs at such places, as the Chief Commissioner, by rules made under this Act, directs.

Duty of Committee to supply water for cleansing sewers and drains.

17. In all the mains and pipes to which any fire-plug is fixed, the Committee shall provide and keep constantly laid on, unless prevented by unusual drought or other unavoidable accident, a sufficient supply of water for use with fire-engines, for cleansing the sewers and drains, and for cleansing and watering the streets.

D.—Supply of Water for other than domestic purposes.

Supply for other than domestic purposes.

18. (1) The Committee may, from time to time, supply any person with water by measurement for other than domestic purposes, for such remuneration and on such terms and conditions as shall be agreed on between the Committee and the person:

Provided that—

(*a*) notwithstanding any such agreement, a person shall not be entitled to such a supply whenever and as long as the Committee are of opinion that the supply would interfere with the proper supply of water for domestic purposes under this Act; and

(*b*) the Committee shall not be liable, in the absence of express stipulation under any such agreement, to any forfeiture, penalty, or damages for not supplying the water if the want of the supply arises from unusual drought or other unavoidable cause or accident.

(2) When any such agreement has been entered into by the Committee with any person, the Committee may, subject to such charges or rates as may have been fixed by the Committee at a special meeting, lay down, or allow to be laid down, the necessary communication-pipes and works, of such dimensions and character as may be fixed by the Committee, for supplying the person with water in accordance with the terms of the agreement.

E.—Pressure of Water supplied.

Pressure at which water must be kept.

19. From such a day as the Chief Commissioner, by notification in the local official Gazette, directs in this behalf, the supply of water in the mains and pipes which the Committee are required to lay under this Act shall be laid on at such pressure as the Chief Commissioner, by rules made under this Act, prescribes.

CHAPTER V.

Reciprocal Rights of Owners and Occupiers to supply of Water to Houses.

Power for occupier of house to require owner to provide works for water-supply.

20. (1) Any occupier holding direct from the owner of a house may, by notice in writing signed by him, require the owner of the house to construct all such works as may be necessary for bringing into the house a supply of water for domestic purposes.

(2) Every notice under this section shall contain an undertaking on the part of the occupier to pay interest at the rate of one per centum per mensem, calculated from the date of the completion of the works, on the cost of the works during the residue of his term of occupation.

(3) If the house, or the land attached thereto, does not abut upon a street in which there is a supply-main, the occupier shall undertake to pay the cost of connecting the house with the nearest supply-main.

Power for occupier to make works in default of owner.

21. (1) If the owner does not, within three months from the service of the notice mentioned in the last foregoing section, cause such works as aforesaid to be completed, the occupier may cause the works to be completed, and may, by way of additional remedy, deduct the cost of the works from the rent payable by him in respect of the house:

Provided that the occupier shall not recover on account of the cost—

(*a*) a sum exceeding the amount of six months' rent; or

(*b*) where the house or the land attached thereto does not abut upon a street in which there is a supply-main, the cost of connecting the house with a supply-main.

(2) The deduction which an occupier is authorized to make under this section shall be made by six equal monthly instalments.

(3) Interest on each instalment shall be payable to the owner by the occupier at the rate of one per centum per mensem from the time when it is deducted.

What works are sufficient for supply of water to house.

22. The works shall not be deemed sufficient for bringing into the house a supply of water for domestic purposes unless the following taps, with the necessary works in connection therewith, are provided, namely:—

(*a*) two taps in the house;

(*b*) one tap in the cook-room of, or other building attached to, the house, and

(*c*) one tap in or near the stables or other out-houses belonging to the house:

Provided that, if the annual rent of the house with the buildings and land attached thereto is less than three hundred rupees, it shall be sufficient to provide one tap only, together with the necessary works in connection therewith, within the house and the buildings and land attached thereto.

Estimate and specification of works to be sent.

23. Works for introducing a supply of water to a house shall not be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such a specification and estimate to the owner.

Power to refer to Committee.

24. If there is any difference between the owner and the occupier respecting the cost or the sufficiency of the proposed works, either the owner or the occupier may refer the difference to the Committee, and the written award of any officer authorized by the Committee in this behalf shall be final and binding on the owner and the occupier.

Fee on reference.

25. There shall be payable by the person making a reference to the Committee under the last foregoing section a fee (not exceeding ten rupees) at the rate of two rupees for every hundred rupees of the monthly rent of the house in respect of the water-supply to which the difference has arisen.

26. (1) The owner of any house or land shall keep all works connected with the supply of water to the house or land in substantial repair.

Duty of owner to keep works in repair.

(2) If the owner fails to put any such works in substantial repair after being requested by the occupier to do so, the occupier may cause the necessary repairs to be made, and may, by way of additional remedy, deduct the cost of the repairs from the rent payable by him in respect of the house or land.

27. Any owner to whom any sum is payable under section 20 or section 21 may recover the sum from the person liable to pay it as if it were rent payable by that person for the house in respect of which the expenses have been incurred.

Power for owner to recover sums payable by occupier.

28. Nothing in this chapter shall affect any contract in writing between the owner and occupier of any house or land.

Saving of contracts between owners and occupiers.

CHAPTER VI.

Rules.

Power for Chief Commissioner to make rules.

29. The Chief Commissioner may, from time to time, make rules consistent with this Act—

(*a*) to prescribe the size and nature of the mains and pipes to be laid and the water-works to be constructed by the Committee for the supply of water under this Act;

(*b*) to prescribe the size and nature of the stand-pipes or pumps to be erected by the Committee under this Act, and the intervals at which they must be erected;

(*c*) to prescribe the mains or pipes in which fire-plugs are to be fixed, and the places at which keys of the fire-plugs are to be deposited, by the Committee under this Act;

(*d*) to prescribe the pressure at which the water supplied by the Committee under this Act is to be laid on either generally or at specified times; and

(*e*) generally to define and regulate the powers and duties of the Committee under this Act.

Power for Committee to make rules.

30. (1) The Committee may, from time to time, at a special meeting, make rules consistent with this Act—

(*a*) for regulating, rowing, sailing, and fishing on or in the Royal Lake; and

(*b*) for preventing the waste or misuse of water supplied by them, and for defining the nature of the pipes, casks, cisterns, and other apparatus to be used by every person supplied by them with water.

(2) In making a rule under this section the Committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing one, with a further fine of five rupees for every day after the first during which the breach continues.

(3) If any person, having or requiring a supply of water from the Committee, fails to comply with any rules made under clause (*b*) of this section, the Committee may refuse to supply water to him, and may cut off the water supplied to him, unless and until the rules are complied with:

1884. Act 19.

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he has otherwise incurred.

Procedure for making rules.

31. (1) The Chief Commissioner or Committee shall, before making any rules under section 29 or section 30, publish a draft of the proposed rules for the information of persons interested.

(2) The publication shall be made—

(*a*) in the case of rules under section 29, in such manner as, in the opinion of the Chief Commissioner, is sufficient; and

(*b*) in the case of rules under section 30, in such manner as the Chief Commissioner, by order, directs.

(3) A notice shall be published with the draft rules specifying a date at or after which the draft shall be taken into consideration.

(4) The Chief Commissioner or Committee shall, before making the rules, receive and consider any objection or suggestion which is made by any person with respect to the draft before the date so specified.

Publication of rules.

32. Every rule made under section 29 or section 30 shall be published in the local official Gazette in English and in such other language or languages as the Chief Commissioner directs, and such publication shall be conclusive evidence that the rule has been made as required by section 31.

CHAPTER VII.

ARREARS AND OFFENCES.

Arrears of water-rents.

33. All arrears of water-rents under this Act may be recovered, on application to such Revenue-officer as the Local Government may appoint in this behalf, as if they were arrears of land-revenue.

Power for Committee to turn off water on neglect to pay water-tax or water-rent.

34. If any person supplied with water neglects to pay—

(*a*) the water-tax leviable under the Burma Municipal Act, 1884, or

(*b*) any water-rent payable by him to the Committee,

the Committee may turn off or cut off the water from the house or land in respect of which the water-tax or water-rent is payable, by cutting off the pipe to the house or land, or by such other means as the Committee think fit, and may recover in manner provided by the last foregoing section the expense of turning off or cutting off the water from the person:

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he has otherwise incurred.

Penalty for obstructing, diverting, or wasting water.

35. If any person unlawfully obstructs the flow of, flushes, draws off, diverts, or takes, water from any water-works belonging to, or under the management or control of, the Committee, or from any water or streams by which these water-works are supplied, or wastes any water supplied to him under this Act, he shall be punished with fine which may extend to one hundred rupees.

Penalty for unauthorized application of water.

36. If any person —

(*a*) uses for other than domestic purposes any water supplied under this Act for domestic purposes; or

(*b*) where water is supplied under section 18 for a specified purpose, uses that water for any other purpose,

he shall be punished with fine which may extend to fifty rupees, without prejudice to the right of the Committee to recover from him the price of the water misused.

Penalties for causing the water of the Committee to be fouled, &c.

37. (1) If any person—

(*a*) bathes in, at, or upon any water-works, or washes, throws, or causes to enter therein any dog or other animal, or

(*b*) throws any rubbish, dirt, filth, or other noisome thing into any water-works, or washes or cleanses therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing, or

(*c*) causes the water of any sink, sewer, or drain, or of any steam-engine or boiler, or any other filthy water belonging to him or under his control, to turn or be brought into any water-works, or does any other act whereby the water in any water-works is fouled, or likely to be fouled,

he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and to ten rupees in addition for each day (if more than one) during which the offence continues.

Prosecutions.

38. Prosecutions under this Act, or the rules made under this Act, may be instituted by the Committee or any person authorized by them in this behalf, and not otherwise.

ACT NO. XX. OF 1884.

INDIAN SALT ACT.

RECEIVED THE G.-G.'S ASSENT ON THE 10TH OCTOBER 1884.

An Act to amend the Indian Salt Act, 1882.

WHEREAS it is expedient to exclude the Province of Sindh from the operation of those portions of the Indian Salt Act, 1882, which do not extend by their own operation to the whole of British India; It is hereby enacted as follows:—

Repeal of words "to the Province of Sindh" and "Province" in section 1 of Act XII. of 1882.

1. From such day as the Governor of Bombay in Council, by notification in the official Gazette, fixes in this behalf, the words "to the Province of Sindh" and the word "Province," in paragraphs three and four respectively of section 1 of the Indian Salt Act, 1882, shall be repealed.

1884.

Act 21.

ACT NO. XXI. OF 1884.

RECEIVED THE G.-G.'s ASSENT ON THE 19TH DECEMBER 1884.

An Act to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to repeal the Straits Settlements Emigration Act, 1887, and to amend the Indian Emigration Act, 1883, in manner hereinafter appearing; It is hereby enacted as follows:—

1. The Straits Settlements Emigration Act, 1877, is repealed.

New section substituted for section 102 of Act XXI. of 1883.

2. For section 102 of the Indian Emigration Act, 1883, the following section shall be substituted.

Power for Governor-General in Council to exempt emigration to Native States adjoining the Straits Settlements from Act.

"102. On and from such a date as the Governor-General in Council may, by notification in the *Gazette of India*, fix in this behalf, a native of India who departs by sea out of British India under an agreement to labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act."

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ACT NO. I. OF 1885.

Received the G.-G.'s Assent on the 2nd January 1885.

An Act to amend the Burma Steam-boilers and Prime-movers Act, 1882.

Whereas it is expedient to amend the Burma Steam-boilers and Prime-movers Act, 1882; It is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the Burma Steam-boilers and Prime-movers Act, 1885; and it shall come into force at once.

Amendment of section 4 of Act XVIII. of 1882.

2. In section 4 of the Burma Steam-boilers and Prime-movers Act, 1882, after the words "first or second class" the words "or as engine-drivers" shall be added.

Amendment of sections 5, 8, and 11 of same Act.

3. In section 5, sub-section (2), section 8, clause (b), and section 11, clause (b), of the said Act, after the word "engineer" the words "or in the case of a boiler or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver" shall be inserted.

ACT NO. II. OF 1885.

Received the G.-G.'s Assent on the 30th January 1885.

An Act to amend the Negotiable Instruments Act, 1881.

Whereas it is expedient to amend the Negotiable Instruments Act, 1881, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Negotiable Instruments Act, 1885.

Amendment of section 7, Act XXVI. of 1881.

2. In the fourth paragraph of section 7 of the Negotiable Instruments Act, 1881, for the words "When acceptance is refused, and the bill is protested for non-acceptance," the following shall be substituted, namely:—"When a bill of exchange has been noted or protested for non-acceptance or for better security."

New section inserted after section 45 of the same Act.

3. After section 45 of the same Act the following shall be inserted:—

Holder's right to duplicate of lost bill.

"45A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again."

1885.

Act 2.

"If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so."

Addition to sections 61 and 64 of the same Act.

4. To section 61, and the first paragraph of section 64, of the same Act, the following shall be added :—

"Where authorised by agreement or usage, a presentment through the post-office by means of a registered letter is sufficient."

Addition to section 101 of the same Act.

5. To section 101 of the same Act the following shall be added :—

"A notary public may make the demand mentioned in clause (*c*) of this section either in person or by his clerk, or, where authorized by agreement or usage, by registered letter."

Section inserted after section 104 of the same Act.

6. After section 104 of the same Act the following shall be inserted :—

"104A. For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting."

When noting equivalent to protest.

Section 108 of the same Act, in part, repealed.

7. In the same Act, section 108, the second sentence is repealed.

Amendment of section 109 of same Act.

8. In the same Act, section 109,

(*a*) for the words "in the presence of a notary public subscribe the bill with his own hand and" the following shall be substituted, namely :—"by writing on the bill under his hand ;" and

(*b*) the last twelve words are repealed.

Amendment of section 113 of same Act.

9. In the same Act, section 113, after the words "the person so paying" the words "or his agent in that behalf" shall be inserted.

New chapter added to same Act.

10. After Chapter XVI. of the same Act, the following shall be inserted :—

"CHAPTER XVII.

"NOTARIES PUBLIC.

"138. The Governor-General in Council may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act, and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act.

Power to appoint notaries public.

"139. The Governor-General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules (among other matters), fix the fees payable to such notaries."

Power to make rules for notaries public.

ACT NO. III. OF 1885.

1885.
Act 3.

RECEIVED THE G.-G.'S ASSENT ON THE 30TH JANUARY 1885.

An Act to amend the Transfer of Property Act, 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows:—

Amendment of section 1 of Act IV. of 1882.

1. For the fifth clause of section 1 of the said Act the following shall be substituted, namely:—

"And any Local Government may, with the previous sanction of the Governor-General in Council, from time to time, by notification in the local official Gazette, exempt, either retrospectively or prospectively, any part of the territories administered by such Local Government from all or any of the following provisions, namely:—

"Sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven, and one hundred and twenty-three."

Addition to same section.

2. The following clause shall be deemed to have been added to the first section of the said Act from the date on which it came into force, namely:—

"Notwithstanding anything in the foregoing part of this section, sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven, and one hundred and twenty-three, shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Indian Registration Act, 1877, under the power conferred by the first section of that Act or otherwise."

Addition to section 4 of same Act.

3. To section 4 of the said Act the following shall be added, namely:—

"And sections fifty-four, paragraphs two and three, fifty-nine, one hundred and seven, and one hundred and twenty-three, shall be read as supplemental to the Indian Registration Act, 1877."

Addition to section 6 of same Act.

4. To section 6 of the said Act the following clause shall be added:—

"(*i*) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue, or the lessee of an estate under the management of a Court of Wards, to assign his interest as such tenant, farmer, or lessee."

Amendment of section 69 of same Act.

5. In section 69 of the said Act—

(*a*) after the words "is valid in the following cases" the words "and in no others" shall be inserted; and

(*b*) after the words "Hindu, Muhammadan, or Buddhist," in both places where they occur, there shall be inserted the words "or a member of any other race, sect, tribe, or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor-General in Council, in the local official Gazette."

1885.

Act 4, & Act 5.

ACT NO. IV. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 30TH JANUARY 1885.

An Act to provide for the temporary appointment from time to time of an Additional Judicial Commissioner for Oudh.

WHEREAS it is expedient to provide for the temporary appointment from time to time of an Additional Judicial Commissioner to assist the Judicial Commissioner of Oudh; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Oudh Additional Judicial Commissioner's Act, 1885; and

(2) It shall come into force at once.

Appointment of Additional Judicial Commissioner of Oudh.

2. (1) The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, appoint such person as it thinks fit to be an Additional Judicial Commissioner, and to sit as such in the Court of the Judicial Commissioner of Oudh.

(2) Every person so appointed shall hold his office during the pleasure of the Local Government.

Jurisdiction and powers of Additional Judicial Commissioner.

3. Every Additional Judicial Commissioner shall exercise such jurisdiction and powers of the Judicial Commissioner under any enactment for the time being in force as the Local Government may, from time to time, prescribe, but only in such cases as the Judicial Commissioner may direct.

Law applicable to Additional Judicial Commissioner.

4. Every enactment for the time being applicable to the Judicial Commissioner shall apply to the Additional Judicial Commissioner when exercising any jurisdiction or powers under the last foregoing section, as if he were the Judicial Commissioner.

ACT NO. V. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 6TH FEBRUARY 1885.

An Act to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby enacted as follows:—

Amendment of section 42 of the Indian Ports Act, 1875.

1. In section 42 of the said Act, for the words "Conservator of every port to which such order relates, and in the custom-house, if any, of every port subject to this Act," the following shall be substituted, namely:—"Conservator, and at the custom-house, if any, of every port to which such order relates."

Addition to section 47 of the same Act.

2. To the fourth paragraph of section 47 of the said Act the following shall be added, namely:—"The expenses aforesaid shall also include the pensions, allowances, and gratuities of persons who have been employed under this Act in the port, or such portion of those pensions, allowances, and gratuities as the Local Government may by rule determine."

Further addition to the same section.

3. After the fifth paragraph of the same section the following shall be inserted, and shall be deemed to have been inserted from the date on which the said Act came into force, namely :—"With the previous sanction of the Local Government the authorities of any port may, from time to time, contribute a sum from the Port Fund Account of that port for all or any of the purposes mentioned in section sixty.

"The sum so contributed shall, if, and so long as, the Local Government so directs, be in substitution of any hospital port-dues imposed under section fifty-nine at that port."

Addition to paragraph 3, section 59, of the same Act.

4. To the third paragraph of section 59 of the same Act the following shall be added, namely :—"The Local Government may, from time to time, by notification in the official Gazette, cancel any such order."

Amendment of Schedule I., Part II., of the same Act.

5. In the entry relating to the Cuttack ports in Part II. of the First Schedule of the same Act, for the words "not exceeding six annas per hundred maunds" the following shall be substituted, namely :—

"Not exceeding four annas per ton."

ACT NO. VI. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 6TH FEBRUARY 1885.

An Act to amend Act XXII. of 1881.

WHEREAS it is expedient to amend the Excise Act, 1881 ; It is hereby enacted as follows :—

Amendment of section 28 of said Act.

1. In section 28 of the said Act, after the words "ten rupees" the words "or who receives an annual remuneration equivalent to such salary" shall be inserted.

Amendment of section 29 of same Act.

2. In the first paragraph of section 29 of the same Act, after the word "salary" the words "or annual remuneration" shall be inserted ; and in the second paragraph of the same section, after the word "rupees" the words "unless the excise-officer is himself such an officer of police" shall be inserted.

New section inserted after section 34 of same Act.

3. In the same Act, after section 34, the following section shall be inserted :—

Power to invest police-officers with powers of excise-officers.

"34A. The Local Government may, from time to time, invest either by name or in virtue of his office—

"(*a*) any police-officer with the powers conferred on excise-officers by section 27 of this Act ;

"(*b*) any police-officer in charge of a station, or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on excise-officers by sections 28 and 29 of this Act.

"Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an excise-officer within the meaning of this Act."

New section substituted for section 47.

4. For section 47 of the same Act the following shall be substituted, namely:—

Prosecutions restricted.

"47. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two, and forty-three, except on the complaint or report of the Collector or an excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

ACT NO. VII. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 20TH FEBRUARY 1885.

An Act to amend the law in force in the Pánch Maháls.

WHEREAS it is expedient that the law in force in the territory comprised in the Pánch Maháls should, on and from the first day of May 1885, be the same as the law in force in the district of Kaira, in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Pánch Maháls Laws Act, 1885.

Laws of Kaira to apply.

2. (1) Save and except the enactments specified in the schedule hereto annexed, all enactments which on the first day of May, 1885, are in force in the district of Kaira and not in the Pánch Maháls, shall be deemed to come into force in the Pánch Maháls on that day.

Other laws repealed.

(2) All enactments which on that day are in force in the Pánch Maháls, and not in the district of Kaira, shall be deemed to be repealed on and from that day in the Pánch Maháls.

Pending proceedings.

3. All proceedings commenced before any authority in the Pánch Maháls before the first day of May 1885, and still pending on that day, shall be disposed of by such authority as the Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed.

Territory to cease to be a scheduled district. Partial repeal of Acts XIV. and XV. of 1874.

4. On and from the first day of May 1885, the Pánch Maháls shall cease to be a scheduled district; and in Part II. of the First Schedule to the Scheduled Districts Act, 1874, and in the same Part of the Sixth Schedule to the Laws Local Extent Act, 1874, the words "The Pánch Maháls" shall be repealed.

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

Acts of the Governor-General in Council.

Number and year.	Title.	Extent of exception.
VIII. of 1870 ...	For the prevention of the murder of female infants.	The whole.
XXI. of 1881 ...	To amend the law providing for the relief of Thákurs in the districts of Broach and Kaira.	The whole.

Acts of the Governor of Bombay in Council.

Number and year.	Title.	Extent of exception.
V. of 1862 ...	For the preservation of the Bhágdári and Narwádári Tenures.	The whole.
V. of 1879 ...	To consolidate and amend the law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.	Section 85 and last fifteen words of section 58.

ACT NO. VIII. OF 1885.

BENGAL TENANCY.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH MARCH 1885.

An Act to amend and consolidate certain enactments relating to the Law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal.

WHEREAS it is expedient to amend and consolidate certain enactments relating to the law of Landlord and Tenant within the territories under the administration of the Lieutenant-Governor of Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. (1) This Act may be called the Bengal Tenancy Act, 1885.

Commencement.

(2) It shall come into force on such date (hereinafter called the commencement of this Act) as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf.

1885.

Act 8.

Local extent.

(3) It shall extend by its own operation to all the territories for the time being under the administration of the Lieutenant-Governor of Bengal, except the Town of Calcutta, the Division of Orissa, and the Scheduled Districts specified in the third Part of the First Schedule of the Scheduled Districts Act, 1874; and the Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, extend the whole or any portion of this Act to the Division of Orissa or any part thereof.

Repeal.

2. (1) The enactments specified in Schedule I. hereto annexed are repealed in the territories to which this Act extends by its own operation.

(2) When this Act is extended to the Division of Orissa or any part thereof, such of those enactments as are in force in that Division or part, or, where a portion only of this Act is so extended, so much of them as is inconsistent with that portion, shall be repealed in that Division or part.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

(4) The repeal of any enactment by this Act shall not revive any right, privilege, matter, or thing not in force or existing at the commencement of this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context :—

(1) "Estate" means land included under one entry in any of the general registers of revenue paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district, and includes Government khás mahàls and revenue-free lands not entered in any register.

(2) "Proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate.

(3) "Tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that person.

(4) "Landlord" means a person immediately under whom a tenant holds, and includes the Government.

(5) "Rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant:

In sections 53 to 68, both inclusive, sections 72 to 75, both inclusive, Chapter XII. and Schedule III. of this Act, "rent" includes also money recoverable under any enactment for the time being in force as if it was rent.

(6) "Pay," "payable," and "payment," used with reference to rent, include "deliver," "deliverable," and "delivery."

(7) "Tenure" means the interest of a tenure-holder or an under-tenure-holder.

(8) "Permanent tenure" means a tenure which is heritable, and which is not held for a limited time.

(9) "Holding" means a parcel or parcels of land held by a raiyat, and forming the subject of a separate tenancy.

(10) "Village" means an area included in a village-map of the revenue-survey within the same exterior boundary, or, where no such maps have been prepared, such area as any officer appointed by the Local Government in this

behalf may determine after local inquiry held on such notice as the Local Government considers sufficient for giving information to all persons interested.

(11) "Agricultural year" means, where the Bengali year prevails, the year commencing on the first day of Bysák; where the Faslí or Amlí year prevails, the year commencing on the first day of Asín; and, where any other year prevails for agricultural purposes, that year.

(12) "Permanent Settlement" means the Permanent Settlement of Bengal, Behar, and Orissa, made in the year 1793.

(13) "Succession" includes both intestate and testamentary succession.

(14) "Signed" includes "marked" when the person making the mark is unable to write his name; it also includes "stamped" with the name of the person referred to.

(15) "Prescribed" means prescribed from time to time by the Local Government by notification in the official Gazette.

(16) "Collector" means the Collector of a district or any other officer appointed by the Local Government to discharge any of the functions of a Collector under this Act.

(17) "Revenue-officer" in any provision of this Act includes any officer whom the Local Government may appoint by name or by virtue of his office to discharge any of the functions of a Revenue-officer under that provision.

(18) "Registered" means registered under any Act for the time being in force for the registration of documents.

CHAPTER II.

Classes of Tenants.

Classes of tenants.

4. There shall be, for the purposes of this Act, the following classes of tenants (namely):—

(1) tenure-holders, including under-tenure-holders,

(2) raiyats, and

(3) under-raiyats, that is to say, tenants holding whether immediately or mediately under raiyats;

and the following classes of raiyats (namely):—

(*a*) raiyats holding at fixed rates, which expression means raiyats holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity,

(*b*) occupancy-raiyats, that is to say, raiyats having a right of occupancy in the land held by them, and

(*c*) non-occupancy-raiyats, that is to say, raiyats not having such a right of occupancy.

Meaning of "tenure-holder" and "raiyat."

5. (1) "Tenure-holder" means primarily a person who has acquired from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it, and includes also the successor in interest of persons who have acquired such a right.

(2) "Raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners, and includes also the successors in interest of persons who have acquired such a right.

1885.

Act 8.

Explanation.—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(3) A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder.

(4) In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to—

(*a*) local custom; and

(*b*) the purpose for which the right of tenancy was originally acquired.

(5) Where the area held by a tenant exceeds one hundred standard bighás, the tenant shall be presumed to be a tenure-holder until the contrary is shewn.

CHAPTER III.

TENURE-HOLDERS.

Enhancement of Rent.

Tenure held since Permanent Settlement liable to enhancement only in certain cases.

6. Where a tenure has been held from the time of the Permanent Settlement, its rent shall not be liable to enhancement except on proof—

(*a*) that the landlord under whom it is held is entitled to enhance the rent thereof either by local custom or by the conditions under which the tenure is held, or

(*b*) that the tenure-holder, by receiving reductions of his rent, otherwise than on account of a diminution of the area of the tenure, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

Limits of enhancement of rent of tenures.

7. (1) Where the rent of a tenure-holder is liable to enhancement, it may, subject to any contract between the parties, be enhanced up to the limit of the customary rate payable by persons holding similar tenures in the vicinity.

(2) Where no such customary rate exists, it may, subject as aforesaid, be enhanced up to such limit as the Court thinks fair and equitable.

(3) In determining what is fair and equitable, the Court shall not leave to the tenure-holder as profit less than ten per centum of the balance which remains after deducting from the gross rents payable to him the expenses of collecting them, and shall have regard to—

(*a*) the circumstances under which the tenure was created, for instance, whether the land comprised in the tenure, or a great portion of it, was first brought under cultivation by the agency or at the expense of the tenure-holder or his predecessors in interest, whether any fine or premium was paid on the creation of the tenure, and whether the tenure was originally created at a specially low rent for the purpose of reclamation; and

(*b*) the improvements, if any, made by the tenure-holder or his predecessors in interest.

(4) If the tenure-holder himself occupies any portion of the land included in the area of his tenure, or has made a grant of any portion of the land either rent-free or at a beneficial rent, a fair and equitable rent shall be calculated for that portion, and included in the gross rents aforesaid.

8. The Court may, if it thinks that an immediate increase of rent would produce hardship, direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the enhancement allowed has been reached.

Power to order gradual enhancement.

9. When the rent of a tenure-holder has been enhanced by the Court or by contract, it shall not be again enhanced by the Court during the fifteen years next following the date on which it has been so enhanced.

Rent once enhanced may not be altered for fifteen years.

Other Incidents of Tenures.

10. A holder of a permanent tenure shall not be ejected by his landlord except on the ground that he has broken a condition on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected:

Permanent tenure-holder not liable to ejectment.

Provided that, where the contract is made after the commencement of this Act, the condition is consistent with the provisions of this Act.

11. Every permanent tenure shall, subject to the provisions of this Act, be capable of being transferred and bequeathed in the same manner and to the same extent as other immoveable property.

Transfer and transmission of permanent tenure.

12. (1) A transfer of a permanent tenure by sale, gift, or mortgage (other than a transfer by sale in execution of a decree, or by summary sale under any law relating to patní or other tenures), can be made only by a registered instrument.

Voluntary transfer of permanent tenure.

(2) A registering officer shall not register any instrument purporting or operating to transfer by sale, gift, or usufructuary* mortgage a permanent tenure, unless there is paid to him, in addition to any fees payable under the Act for the time being in force for the registration of documents, a process-fee of the prescribed amount and a fee (hereinafter called "the landlord's fee") of the following amount, namely:—

(*a*) when rent is payable in respect of the tenure, a fee of two per centum on the annual rent of the tenure: provided that no such fee shall be less than one rupee or more than one hundred rupees; and

(*b*) when rent is not payable in respect of the tenure, a fee of two rupees.

(3) When the registration of any such instrument is complete, the registering officer shall send to the Collector the landlord's fee and a notice of the transfer and registration in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

13. (1) When a permanent tenure is sold in execution of a decree other than a decree for arrears of rent due in respect thereof, "or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed," the Court shall, before confirming the sale under section 312 of the Code of Civil Procedure, "or making a decree or order absolute for the foreclosure," require the purchaser "or mortgagee" to pay into Court the landlord's fee prescribed by the last foregoing section and such further fee for service of notice of the sale "or final foreclosure" on the landlord as may be prescribed.

Transfer of permanent tenure by sale in execution of decree other than decree for rent.

* The word "usufructuary" has been inserted by Act VIII. of 1886, s. 1.

1885.

Act 8.

(2) When the sale has been confirmed, "or the decree or order absolute for the foreclosure has been made," the Court shall send to the Collector the landlord's fee and a notice of the sale "or final foreclosure" in the prescribed form, and the Collector shall cause the fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.*

Transfer of permanent tenure by sale in execution of decree for rent.

14. When a permanent tenure is transferred by sale in execution of a decree for arrears of rent due in respect thereof, the Court shall send to the Collector a notice of the sale in the prescribed form.

Succession to permanent tenure.

15. When a succession to a permanent tenure takes place, the person succeeding shall give notice of the succession to the Collector in the prescribed form, and shall pay to the Collector the prescribed fee for the service of the notice on the landlord and the landlord's fee prescribed by section 12, and the Collector shall cause the landlord's fee to be paid to, and the notice to be served on, the landlord in the prescribed manner.

Bar to recovery of rent pending notice of succession.

16. A person becoming entitled to a permanent tenure by succession shall not be entitled to recover, by suit, distraint, or other proceeding, any rent payable to him as the holder of the tenure, until the Collector has received the notice and fees referred to in the last foregoing section.

Transfer of, and succession to, share in permanent tenure.

17. Subject to the provisions of section 88, the foregoing sections shall apply to the transfer of, or succession to, a share in a permanent tenure.

CHAPTER IV.

RAIYATS HOLDING AT FIXED RATES.

Incidents of holding at fixed rates.

18. A raiyat holding at a rent, or rate of rent, fixed in perpetuity—

(*a*) shall be subject to the same provisions with respect to the transfer of, and succession to, his holding as the holder of a permanent tenure, and

(*b*) shall not be ejected by his landlord except on the ground that he has broken a condition consistent with this Act, and on breach of which he is, under the terms of a contract between him and his landlord, liable to be ejected.

CHAPTER V.

OCCUPANCY-RAIYATS.

General.

Continuance of existing occupancy-rights.

19. Every raiyat who, immediately before the commencement of this Act, has, by the operation of any enactment, by custom, or otherwise, a right of occupancy in any land, shall, when this Act comes into force, have a right of occupancy in that land.

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* The words quoted in this section have been inserted by Act VIII. of 1886, s. 2.

20. (1) Every person who for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a raiyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyat of that village.

Definition of "settled raiyat."

(2) A person shall be deemed, for the purposes of this section, to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.

(3) A person shall be deemed, for the purposes of this section, to have held as a raiyat any land held as a raiyat by a person whose heir he is.

(4) Land held by two or more co-sharers as a raiyatí holding shall be deemed, for the purposes of this section, to have been held as a raiyat by each such co-sharer.

(5) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village and for one year thereafter.

(6) If a raiyat recovers possession of land under section 87, he shall be deemed to have continued to be a settled raiyat, notwithstanding his having been out of possession more than a year.

(7) If, in any proceeding under this Act, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed for the purposes of this section, until the contrary is proved or admitted, that he has, for twelve years continuously, held that land or some part of it as a raiyat.

21. (1) Every person who is a settled raiyat of a village within the meaning of the last foregoing section shall have a right of occupancy in all land for the time being held by him as a raiyat in that village.

Settled raiyats to have occupancy-rights.

(2) Every person who, being a settled raiyat of a village within the meaning of the last foregoing section, held land as a raiyat in that village at any time between the second day of March 1883, and the commencement of this Act, shall be deemed to have acquired a right of occupancy in that land under the law then in force; but nothing in this sub-section shall affect any decree or order passed by a Court before the commencement of this Act.

22. (1) When the immediate landlord of an occupancy-holding is a proprietor or permanent tenure-holder, and the entire interest of the landlord and the raiyat in the holding becomes united in the same person by transfer, succession, or otherwise, the occupancy-right shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

Effect of acquisition of occupancy-right by landlord.

(2) If the occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, it shall cease to exist; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(3) A person holding land as an ijárádár or farmer of rents shall not, while so holding, acquire a right of occupancy in any land comprised in his ijárá or farm.

Explanation.—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in ijárá or farm.

1885.

Act 8.

Incidents of Occupancy-right.

Rights of raiyat in respect of use of land.

23. When a raiyat has a right of occupancy in respect of any land, he may use the land in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy; but shall not be entitled to cut down trees in contravention of any local custom.

Obligation of raiyat to pay rent.

24. An occupancy-raiyat shall pay rent for his holding at fair and equitable rates.

Protection from eviction except on specified grounds.

25. An occupancy-raiyat shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

(*a*) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition consistent with the provisions of this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

Devolution of occupancy-right on death.

26. If a raiyat dies intestate in respect of a right of occupancy, it shall, subject to any custom to the contrary, descend in the same manner as other immoveable property: provided that, in any case in which under the law of inheritance to which the raiyat is subject his other property goes to the Crown, his right of occupancy shall be extinguished.

Enhancement of Rent.

Presumption as to fair and equitable rent.

27. The rent for the time being payable by an occupancy-raiyat shall be presumed to be fair and equitable until the contrary is proved.

Restriction on enhancement of money-rents.

28. Where an occupancy-raiyat pays his rent in money, his rent shall not be enhanced except as provided by this Act.

Enhancement of rent by contract.

29. The money-rent of an occupancy-raiyat may be enhanced by contract, subject to the following conditions:—

(*a*) the contract must be in writing and registered;

(*b*) the rent must not be enhanced so as to exceed by more than two annas in the rupee the rent previously payable by the raiyat;

(*c*) the rent fixed by the contract shall not be liable to enhancement during a term of fifteen years from the date of the contract;

Provided as follows—

(i.) Nothing in clause *a* shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

(ii.) Nothing in clause *b* shall apply to a contract by which a raiyat binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by, or at the expense of, his landlord, and to the benefit of which the raiyat is not otherwise entitled; but an enhanced rent fixed by such a contract shall be payable only when the improvement has been effected, and, except when the raiyat is chargeable with default in respect of the improvement, only so long as the improvement exists and substantially produces its estimated effect in respect of the holding.

(iii.) When a raiyat has held his land at a specially low rate of rent in consideration of cultivating a particular crop for the convenience of the land lord, nothing in clause *b* shall prevent the raiyat from agreeing, in considera tion of his being released from the obligation of cultivating that crop, to pay such rent as he may deem fair and equitable.

Enhancement of rent by suit.

30. The landlord of a holding held at a money-rent by an occupancy-raiyat may, subject to the provisions of this Act, institute a suit to enhance the rent on one or more of the following grounds (namely):—

(*a*) that the rate of rent paid by the raiyat is below the prevailing rate paid by occupancy-raiyats for land of a similar description and with similar advantages in the same village, and that there is no sufficient reason for his holding at so low a rate;

(*b*) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;

(*c*) that the productive powers of the land held by the raiyat have been increased by an improvement effected by, or at the expense of, the landlord during the currency of the present rent;

(*d*) that the productive powers of the land held by the raiyat have been increased by fluvial action.

Explanation.—"Fluvial action" includes a change in the course of a river rendering irrigation from the river practicable when it was not previously practicable.

Rules as to enhancement on ground of prevailing rate.

31. Where an enhancement is claimed on the ground that the rate of rent paid is below the prevailing rate—

(*a*) in determining what is the prevailing rate the Court shall have regard to the rates generally paid during a period of not less than three years before the institution of the suit, and shall not decree an enhancement unless there is a substantial difference between the rate paid by the raiyat and the prevailing rate found by the Court;

(*b*) if in the opinion of the Court the prevailing rate of rent cannot be satisfactorily ascertained without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV. of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rules made under section 392 of the said Code;

(*c*) in determining under this section the rate of rent payable by a raiyat his caste shall not be taken into consideration, unless it is proved that by local custom caste is taken into account in determining the rate; and whenever it is found that by local custom any description of raiyats hold land at favourable rates of rent, the rate shall be determined in accordance with that custom;

(*d*) in ascertaining the prevailing rate of rent the amount of any enhancement authorized on account of a landlord's improvement shall not be taken into consideration.

Rules as to enhancement on ground of rise in prices.

32. Where an enhancement is claimed on the ground of a rise in prices—

(*a*) the Court shall compare the average prices during the decennial period immediately preceding the institution of the suit with the average prices during such other decennial period as it may appear equitable and practicable to take for comparison;

(*b*) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous decennial period taken for purposes of comparison:

provided that, in calculating this proportion, the average prices during the later period shall be reduced by one-third of their excess over the average prices during the earlier period;

(*c*) if in the opinion of the Court it is not practicable to take the decennial periods prescribed in clause *a*, the Court may, in its discretion, substitute any shorter period therefor.

Rules as to enhancement on ground of landlord's improvement.

33. (1) Where an enhancement is claimed on the ground of a landlord's improvement—

(*a*) the Court shall not grant an enhançement unless the improvement has been registered in accordance with this Act;

(*b*) in determining the amount of enhancement the Court shall have regard to—

(i.) the increase in the productive powers of the land caused or likely to be caused by the improvement,

(ii.) the cost of the improvement,

(iii.) the cost of the cultivation required for utilizing the improvement, and

(iv.) the existing rent and the ability of the land to bear a higher rent.

(2) A decree under this section shall, on the application of the tenant or his successor in interest, be subject to re-consideration in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to enhancement on ground of increase in productive powers due to fluvial action.

34. Where an enhancement is claimed on the ground of an increase in productive powers due to fluvial action—

(*a*) the Court shall not take into account any increase which is merely temporary or casual;

(*b*) the Court may enhance the rent to such an amount as it may deem fair and equitable, but not so as to give the landlord more than one-half of the value of the net increase in the produce of the land.

Enhancement by suit to be fair and equitable.

35. Notwithstanding anything in the foregoing sections, the Court shall not, in any case, decree any enhancement which is, under the circumstances of the case, unfair or inequitable.

Power to order progressive enhancement.

36. If the Court passing a decree for enhancement considers that the immediate enforcement of the decree in its full extent will be attended with hardship to the raiyat, it may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees for any number of years not exceeding five until the limit of the enhancement decreed has been reached.

Limitation of right to bring successive enhancement-suits.

37. (1) A suit instituted for the enhancement of the rent of a holding on the ground that the rate of rent paid is below the prevailing rate, or on the ground of a rise in prices, shall not be entertained if within the fifteen years next preceding its institution the rent of the holding has been enhanced by a contract made after the second day of March 1883, or if, within the said period of fifteen years, the rent has been commuted under section 40, or a decree has been passed under this Act or any enactment repealed by this Act enhancing the rent on either of the grounds aforesaid, or on any ground corresponding thereto, or dismissing the suit on the merits.

(2) Nothing in this section shall affect the provisions of section 373 of the Code of Civil Procedure.

Reduction of Rent.

38. (1) An occupancy-raiyat holding at a money-rent may institute a suit for the reduction of his rent on the following grounds, and except as hereinafter provided in the case of a diminution of the area of the holding, not otherwise (namely):—

Reduction of rent.

(*a*) on the ground that the soil of the holding has, without the fault of the raiyat, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual, or

(*b*) on the ground that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent.

(2) In any suit instituted under this section, the Court may direct such reduction of the rent as it thinks fair and equitable.

Price-lists.

39. (1) The Collector of every district shall prepare, monthly, or at shorter intervals, periodical lists of the market-prices of staple food-crops grown in such local areas as the Local Government may from time to time direct, and shall submit them to the Board of Revenue for approval or revision.

Price-lists of staple food-crops.

(2) The Collector may, if so directed by the Local Government, prepare for any local area like price-lists relating to such past times as the Local Government thinks fit, and shall submit the lists so prepared to the Board of Revenue for approval or revision.

(3) The Collector shall, one month before submitting a price-list to the Board of Revenue under this section, publish it in the prescribed manner within the local area to which it relates, and if any landlord or tenant of land within the local area, within the said period of one month, presents to him in writing any objection to the list, he shall submit the same to the Board of Revenue with the list.

(4) The price-lists shall, when approved or revised by the Board of Revenue, be published in the official Gazette; and any manifest error in any such list discovered after its publication may be corrected by the Collector with the sanction of the Board of Revenue.

(5) The Local Government shall cause to be compiled from the periodical lists prepared under this section lists of the average prices prevailing throughout each year, and shall cause them to be published annually in the official Gazette.

(6) In any proceedings under this chapter for an enhancement or reduction of rent on the ground of a rise or fall in prices, the Court shall refer to the lists published under this section, and shall presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct, unless and until it is proved that they are incorrect.

(7) The Local Government, subject to the control of the Governor-General in Council, shall make rules for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists under this section.

Commutation.

40. (1) Where an occupancy-raiyat pays for a holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, either the raiyat or his landlord may apply to have the rent commuted to a money-rent.

Commutation of rent payable in kind.

(2) The application may be made to the Collector or Sub-divisional Officer, or to an officer making a settlement of rents under Chapter X., or to any other officer specially authorized in this behalf by the Local Government.

(3) On the receipt of the application the officer may determine the sum to be paid as money-rent, and may order that the raiyat shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so determined.

(4) In making the determination the officer shall have regard to—

(*a*) the average money-rent payable by occupancy-raiyats for land of a similar description and with similar advantages in the vicinity;

(*b*) the average value of the rent actually received by the landlord during the preceding ten years or during any shorter period for which evidence may be available; and

(c) the charges incurred by the landlord in respect of irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges.

(5) The order shall be in writing, shall state the grounds on which it is made and the time from which it is to take effect, and shall be subject to appeal in like manner as if it were an order made in an ordinary revenue-proceeding.

(6) If the application is opposed, the officer shall consider whether, under all the circumstances of the case, it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it, he shall record in writing the reasons for the refusal.

CHAPTER VI.

NON-OCCUPANCY-RAIYATS.

Application of chapter.

41. This chapter shall apply to raiyats not having a right of occupancy, who are in this Act referred to as non-occupancy-raiyats.

Initial rent of non-occupancy-raiyat.

42. When a non-occupancy-raiyat is admitted to the occupation of land, he shall become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admission.

Conditions of enhancement of rent.

43. The rent of a non-occupancy-raiyat shall not be enhanced except by registered agreement or by agreement under section 46:

Provided that nothing in this section shall prevent a landlord from recovering rent at the rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.

Grounds on which non-occupancy-raiyat may be ejected.

44. A non-occupancy-raiyat shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise (namely):—

(*a*) on the ground that he has failed to pay an arrear of rent;

(*b*) on the ground that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or that he has broken a condition consistent with this Act, and on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;

(*c*) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired;

(*d*) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 46, or that the term for which he is entitled to hold at such a rent has expired.

45. A suit for ejectment on the ground of the expiration of the term of a lease shall not be instituted against a non-occupancy-raiyat unless notice to quit has been served on the raiyat not less than six months before the expiration of the term, and shall not be instituted after six months from the expiration of the term.

Conditions of ejectment on ground of expiration of lease.

46. (1) A suit for ejectment on the ground of refusal to agree to an enhancement of rent shall not be instituted against a non-occupancy-raiyat unless the landlord has tendered to the raiyat an agreement to pay the enhanced rent, and the raiyat has, within three months before the institution of the suit, refused to execute the agreement.

Conditions of ejectment on ground of refusal to agree to enhancement.

(2) A landlord desiring to tender an agreement to a raiyat under this section may file it in the office of such Court or officer as the Local Government appoints in this behalf for service on the raiyat. The Court or officer shall forthwith cause it to be served on the raiyat in the prescribed manner, and when it has been so served it shall, for the purposes of this section, be deemed to have been tendered.

(3) If a raiyat on whom an agreement has been served under sub-section 2 executes it, and within one month from the date of service files it in office from which it issued, it shall take effect from the commencement of the agricultural year next following.

(4) When an agreement has been executed and filed by a raiyat under sub-section 3, the Court or officer in whose office it is so filed shall forthwith cause a notice of its being so executed and filed to be served on the landlord in the prescribed manner.

(5) If the raiyat does not execute the agreement and file it under sub-section 3, he shall be deemed, for the purposes of this section, to have refused to execute it.

(6) If a raiyat refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Court shall determine what rent is fair and equitable for the holding.

(7) If the raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment under the conditions mentioned in the last foregoing section, unless he has acquired a right of occupancy.

(8) If the raiyat does not agree to pay the rent so determined, the Court shall pass a decree for ejectment.

(9) In determining what rent is fair and equitable, the Court shall have regard to the rents generally paid by raiyats for land of a similar description and with like advantages in the same village.

(10) A decree for ejectment passed under this section shall take effect from the end of the agricultural year in which it is passed.

47. Where a raiyat has been in occupation of land, and a lease is executed with a view to a continuance of his occupation, he is not to be deemed to be admitted to occupation by that lease for the purposes of this chapter, notwithstanding that the lease may purport to admit him to occupation.

Explanation of "admitted to occupation."

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CHAPTER VII.

UNDER-RAIYATS.

48. The landlord of an under-raiyat holding at a money-rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same (namely):—

Limit of rent recoverable from under-raiyats.

(*a*) when the rent payable by the under-raiyat is payable under a registered lease or agreement—fifty per cent.; and

(*b*) in any other case—twenty-five per cent.

Restriction on ejectment of under-raiyats.

49. An under-raiyat shall not be liable to be ejected by his landlord, except—

(*a*) on the expiration of the term of a written lease;

(*b*) when holding otherwise than under a written lease, at the end of the agricultural year next following the year in which a notice to quit is served upon him by his landlord.

CHAPTER VIII.

GENERAL PROVISIONS AS TO RENT.

Rules and Presumptions as to amount of Rent.

50. (1) Where a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed from the time of the Permanent Settlement, the rent or rate of rent shall not be liable to be increased except on the ground of an alteration in the area of the tenure or holding.

Rules and presumptions as to fixity of rent.

(2) If it is proved in any suit or other proceeding under this Act that either a tenure-holder or raiyat and his predecessors in interest have held at a rent or rate of rent which has not been changed during the twenty years immediately before the institution of the suit or proceeding, it shall be presumed, until the contrary is shown, that they have held at that rent or rate of rent from the time of the Permanent Settlement:

Provided that, if it is required by or under any enactment that in any local area tenancies, or any classes of tenancies, at fixed rents or rates of rent, shall be registered as such on or before a date specified by or under the enactment, the foregoing presumption shall not, after that date, apply to any tenancy or, as the case may be, to any tenancy of that class in that local area, unless the tenancy has been so registered.

(3) The operation of this section, so far as it relates to land held by a raiyat, shall not be affected by the fact of the land having been separated from other land which formed with it a single holding, or amalgamated with other land into one holding.

(4) Nothing in this section shall apply to a tenure held for a term of years or determinable at the will of the landlord.

51. If a question arises as to the amount of a tenant's rent or the conditions under which he holds in any agricultural year, he shall be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Presumption as to amount of rent and conditions of holding.

Alteration of Rent on Alteration of Area.

Alteration of rent in respect of alteration in area.

52. (1) Every tenant shall—

(*a*) be liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the tenure or holding of land which having previously belonged to the tenure or holding was lost by diluvion or otherwise without any reduction of the rent being made, and

(*b*) be entitled to a reduction of rent in respect of any deficiency proved by measurement to exist in the area of his tenure or holding as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenure or holding by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid, the Court shall, if so required by any party to the suit, have regard to—

(*a*) the origin and conditions of the tenancy, for instance, whether the rent was a consolidated rent for the entire tenure or holding;

(*b*) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord;

(*c*) the length of time during which the tenancy has lasted without dispute as to rent or area; and

(*d*) the length of the measure used or in local use at the time of the origin of the tenancy as compared with that used or in local use at the time of the institution of the suit.

(3) In determining the amount to be added to the rent, the Court shall have regard to the rates payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity, and, in the case of a tenure-holder, to the profits to which he is entitled in respect of the rent of his tenure, and shall not in any case fix any rent which, under circumstances of the case, is unfair or inequitable.

(4) The amount abated from the rent shall bear the same proportion to the rent previously payable as the diminution of the total yearly value of the tenure or holding bears to the previous total yearly value thereof, or, in default of satisfactory proof of the yearly value of the land lost, shall bear to the rent previously payable the same proportion as the diminution of area bears to the previous area of the tenure or holding.

Payment of Rent.

Instalments of rent.

53. Subject to agreement or established usage, a money-rent payable by a tenant shall be paid in four equal instalments falling due on the last day of each quarter of the agricultural year.

Time and place for payment of rent.

54. (1) Every tenant shall pay each instalment of rent before sunset of the day on which it falls due.

(2) The payment shall, except in cases where a tenant is allowed under this Act to deposit his rent, be made at the landlord's village-office, or at such other convenient place as may be appointed in that behalf by the landlord:

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Provided that the Local Government may, from time to time, make rules, either generally or for any specified local area, authorizing a tenant to pay his rent by postal money-order.

(3) Any instalment or part of an instalment of rent not duly paid at or before the time when it falls due shall be deemed an arrear.

Appropriation of payments.

55. (1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

Receipts and Accounts.

Tenant making payment to his landlord entitled to a receipt.

56. (1) Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount paid by him, signed by the landlord.

(2) The landlord shall prepare and retain a counterfoil of the receipt.

(3) The receipt and counterfoil shall specify such of the several particulars shown in the form of receipt given in Schedule II. to this Act as can be specified by the landlord at the time of payment:

Provided that the Local Government may, from time to time, prescribe or sanction a modified form either generally or for any particular local area or class of cases.

(4) If a receipt does not contain substantially the particulars required by this section, it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands for rent up to the date on which the receipt was given.

Tenant entitled to full discharge or statement of account at close of year.

57. (1) Where a landlord admits that all rent payable by a tenant to the end of the agricultural year has been paid, the tenant shall be entitled to receive from the landlord, free of charge, within three months after the end of the year, a receipt in full discharge of all rent falling due to the end of the year, signed by the landlord.

(2) Where the landlord does not so admit, the tenant shall be entitled, on paying a fee of four annas, to receive, within three months after the end of the year, a statement of account specifying the several particulars shown in the form of account given in Schedule II. to this Act, or in such other form as may, from time to time, be prescribed by the Local Government either generally or for any particular local area or class of cases.

(3) The landlord shall prepare and retain a copy of the statement containing similar particulars.

Penalties and fine for withholding receipts and statements of account and failing to keep counterparts.

58. (1) If a landlord, without reasonable cause, refuses or neglects to deliver to a tenant a receipt containing the particulars prescribed by section 56 for any rent paid by the tenant, the tenant may, within three months from the date of payment, institute a suit to recover from him such penalty, not exceeding double the amount or value of that rent, as the Court thinks fit.

(2) If a landlord, without reasonable cause, refuses or neglects to deliver to a tenant demanding the same either the receipt in full discharge or, if the tenant is not entitled to such a receipt, the statement of account for any

year prescribed in section 57, the tenant may, within the next ensuing agricultural year, institute a suit to recover from him such penalty as the Court thinks fit, not exceeding double the aggregate amount or value of all rent paid by the tenant to the landlord during the year for which the receipt or account should have been delivered.

(3) If a landlord, without reasonable cause, fails to prepare and retain a counterfoil or copy of a receipt or statement as required by either of the said sections, he shall be punished with fine which may extend to fifty rupees.

Local Government to prepare forms of receipt and account.

59. (1) The Local Government shall cause to be prepared and kept for sale to landlords at all sub-divisional offices forms of receipts with counterfoils and of statements of account suitable for use under the foregoing sections.

(2) The forms may be sold in books with the leaves consecutively numbered or otherwise as the Local Government thinks fit.

Effect of receipt by registered proprietor, manager, or mortgagee.

60. Where rent is due to the proprietor, manager, or mortgagee of an estate, the receipt of the person registered under the Land Registration Act, 1876, as proprietor, manager, or mortgagee of that estate, or of his agent authorized in that behalf, shall be a sufficient discharge for the rent; and the person liable for the rent shall not be entitled to plead in defence to a claim by the person so registered that the rent is due to any third person.

But nothing in this section shall affect any remedy which any such third person may have against the registered proprietor, manager, or mortgagee.

Deposit of Rent.

Application to deposit rent in Court.

61. (1) In any of the following cases, namely:—

(a) when a tenant tenders money on account of rent, and the landlord refuses to receive it, or refuses to grant a receipt for it;

(b) when a tenant bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the person to whom his rent is payable will not be willing to receive it and to grant him a receipt for it;

(c) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf; or

(d) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent,

the tenant may present to the Court having jurisdiction to entertain a suit for the rent of his tenure or holding an application in writing for permission to deposit in the Court the full amount of the money then due.

(2) The application shall contain a statement of the grounds on which it is made; shall state—

in cases *a* and *b*, the name of the person to whose credit the deposit is to be entered,

in case *c*, the names of the sharers to whom the rent is due, or of so many of them as the tenant may be able to specify, and

in case *d*, the name of the person to whom the rent was last paid, and of the person or persons now claiming it;

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shall be signed and verified, in the manner prescribed in section 52 of the Code of Civil Procedure, by the tenant, or, where he is not personally cognizant of the facts of the case, by some person so cognizant; and shall be accompanied by a fee of such amount as the Local Government, from time to time, by rule, directs."

Receipt granted by Court for rent deposited to be a valid acquittance.

62. (1) If it appears to the Court to which an application is made under the last foregoing section that the applicant is entitled under that section to deposit the rent, it shall receive the rent, and give a receipt for it under the seal of the Court.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent payable by the tenant and deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in cases *a* and *b* of the last foregoing section, by the person specified in the application as the person to whose credit the deposit was to be entered;

in case *c* of that section, by the co-sharers to whom the rent is due; and

in case *d* of that section, by the person entitled to the rent.

Notification of receipt of deposit.

63. (1) The Court receiving the deposit shall forthwith cause to be affixed in a conspicuous place at the Court-house a notification of the receipt thereof, containing a statement of all material particulars.

(2) If the amount of the deposit is not paid away under the next following section, within the period of fifteen days next following the date on which the notification is so affixed, the Court shall forthwith—

in cases *a* and *b* of section 61, cause a notice of the receipt of the deposit to be served, free of charge, on the person specified in the application as the person to whose credit the deposit was to be entered;

in case *c* of that section, cause a notice of the receipt of the deposit to be posted at the landlord's village-office or in some conspicuous place in the village in which the holding is situate; and

in case *d* of that section, cause a like notice to be served, free of charge, on every person who it has reason to believe claims or is entitled to the deposit.

Payment or refund of deposit.

64. (1) The Court may pay the amount of the deposit to any person appearing to it to be entitled to the same, or may, if it thinks fit, retain the amount pending the decision of a Civil Court as to the person so entitled.

(2) The payment may, if the Local Government so direct, be made by postal money-order.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor upon his application, and on his returning the receipt given by the Court with which the rent was deposited.

(4) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Court receiving a deposit under the foregoing sections; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid under this section.

Arrears of Rent.

Liability to sale for arrears in case of permanent tenure, holding at fixed rates or occupancy-holding.

65. Where a tenant is a permanent tenure-holder, a raiyat holding at fixed rates, or an occupancy-raiyat, he shall not be liable to ejectment for arrears of rent, but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof, and the rent shall be a first charge thereon.

Ejectment for arrears in other cases.

66. (1) When an arrear of rent remains due from a tenant not being a permanent tenure-holder, a raiyat holding at fixed rates or an occupancy-raiyat, at the end of the Bengali year where that year prevails, or at the end of the month of Jeyt where the Fasli or Amli year prevails, the landlord may, whether he has obtained a decree for the recovery of the arrear or not, and whether he is entitled by the terms of any contract to eject the tenant for arrears or not, institute a suit to eject the tenant.

(2) In a suit for ejectment for an arrear of rent a decree passed in favour of the plaintiff shall specify the amount of the arrear and of the interest (if any) due thereon, and the decree shall not be executed if that amount and the costs of the suit are paid into Court within fifteen days from the date of the decree, or, when the Court is closed on the fifteenth day, on the day upon which the Court re-opens.

(3) The Court may, for special reasons, extend the period of fifteen days mentioned in this section.

Interest on arrears.

67. An arrear of rent shall bear simple interest at the rate of twelve per centum per annum from the expiration of that quarter of the agricultural year in which the instalment falls due to the institution of the suit.

Power to award damages on rent withheld without reasonable cause, or to defendant improperly sued for rent.

68. (1) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount of rent due by him, the Court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as it thinks fit:

Provided that interest shall not be decreed when damages are awarded under this section.

(2) If, in any suit brought for the recovery of arrears of rent, it appears to the Court that the plaintiff has instituted the suit without reasonable or probable cause, the Court may award to the defendant, by way of damages, such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as it thinks fit.

Produce-rents.

Order for appraising or dividing produce.

69. (1) Where rent is taken by appraisement or division of the produce,—

(*a*) if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the appraisement or division, or

(*b*) if there is a dispute about the quantity, value, or division of the produce,

the Collector may, on the application of either party, and on his depositing such sum on account of expenses as the Collector may require, make an order appointing such officer as he thinks fit to appraise or divide the produce.

(2) The Collector may, without such an application, make the like order in any case where, in the opinion of the District or Sub-divisional Magistrate, the making of the order would be likely to prevent a breach of the peace.

(3) Where a Collector makes an order under this section, he may, by order, prohibit the removal of the produce until the appraisement or division has been effected.

Procedure where officer appointed.

70. (1) When a Collector appoints an officer under the last foregoing section, the Collector may, in his discretion, direct the officer to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications, and mode of selection of those assessors (if any), and the procedure to be followed in making the appraisement or division : and the officer shall conform to the instructions so given.

(2) The officer shall, before making an appraisement or division, give notice to the landlord and tenant of the time and place at which the appraisement or division will be made; but if either the landlord or the tenant fails to attend either personally or by agent, he may proceed *ex parte.*

(3) When the officer has made the appraisement or division, he shall submit a report of his proceedings to the Collector.

(4) The Collector shall consider the report, and, after giving the parties an opportunity of being heard, and making such enquiry (if any) as he may think necessary, shall pass such order thereon as he thinks just.

(5) The Collector may, if he thinks fit, refer any question in dispute between the parties for the decision of a Civil Court, but, subject as aforesaid, his order shall be final, and shall, on application to a Civil Court by the landlord or the tenant, be enforceable as a decree.

(6) Where the officer makes an appraisement, the appraisement papers shall be filed in the Collector's office.

Rights and liabilities as to possession of crop.

71. (1) Where rent is taken by appraisement of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(2) Where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case the tenant shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landlord.

(4) If the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof at the proper time, the produce shall be deemed to have been as full as the fullest crop of the same description appraised in the neighbourhood on similar land for that harvest.

Liability for Rent on Change of Landlord or after Transfer of Tenure or Holding.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord without notice of the transfer.

72. (1) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer, and was paid to the landlord whose interest was so transferred, unless the transferee has, before the payment, given notice of the transfer to the tenant.

(2 Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants published in the prescribed manner shall be a sufficient notice for the purposes of this section.

Liability for rent after transfer of occupancy-holding.

73. When an occupancy-raiyat transfers his holding without the consent of the landlord, the transferor and transferee shall be jointly and severally liable to the landlord for arrears of rent accruing due after the transfer, unless and until notice of the transfer is given to the landlord in the prescribed manner.

Illegal Cesses, &c.

Abwáb, &c., illegal.

74. All impositions upon tenants under the denomination of *abwáb*, *mahtut*, or other like appellations, in addition to the actual rent, shall be illegal, and all stipulations and reservations for the payment of such shall be void.

Penalty for exaction by landlord from tenant of sum in excess of the rent payable.

75. Every tenant from whom, except under any special enactment for the time being in force, any sum of money or any portion of the produce of his land is exacted by his landlord in excess of the rent lawfully payable, may, within six months from the date of the exaction, institute a suit to recover from the landlord, in addition to the amount or value of what is so exacted, such sum by way of penalty as the Court thinks fit, not exceeding two hundred rupees; or, when double the amount or value of what is so exacted exceeds two hundred rupees, not exceeding double that amount or value.

CHAPTER IX.

MISCELLANEOUS PROVISIONS AS TO LANDLORDS AND TENANTS.

Improvements.

Definition of "improvement."

76. (1) For the purposes of this Act, the term "improvement," used with reference to a raiyat's holding, shall mean any work which adds to the value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

(2) Until the contrary is shown, the following shall be presumed to be improvements within the meaning of this section:—

(*a*) the construction of wells, tanks, water-channels, and other works for the storage, supply, or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste-land which is culturable;

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(*d*) the reclamation, clearance, enclosure, or permanent improvement of land for agricultural purposes;

(*e*) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto; and

(*f*) the erection of a suitable dwelling-house for the raiyat and his family, together with all necessary out-offices.

(3) But no work executed by the raiyat of a holding shall be deemed to be an improvement for the purposes of this Act if it substantially diminishes the value of his landlord's property.

Right to make improvements in case of holding at fixed rates and occupancy-holding.

77. (1) Where a raiyat holds at fixed rates, or has an occupancy-right in his holding, neither the raiyat nor his landlord shall, as such, be entitled to prevent the other from making an improvement in respect of the holding, except on the ground that he is willing to make it himself.

(2) If both the raiyat and his landlord wish to make the same improvement, the raiyat shall have the prior right to make it, unless it affects another holding or other holdings under the same landlord.

Collector to decide question as to right to make improvement, &c.

78. If a question arises between the raiyat and his landlord—

(*a*) as to the right to make an improvement, or

(*b*) as to whether a particular work is an improvement,

the Collector may, on the application of either party, decide the question, and his decision shall be final.

Right to make improvements in case of non-occupancy-holding.

79. (1) A non-occupancy-raiyat shall be entitled to construct, maintain, and repair a well for the irrigation of his holding, with all works incidental thereto, and to erect a suitable dwelling-house for himself and his family, with all necessary out-offices; but shall not, except as aforesaid, and as next hereinafter provided, be entitled to make any other improvement in respect of his holding without his landlord's permission.

(2) A non-occupancy-raiyat, who would, but for the want of his landlord's permission, be entitled to make an improvement in respect of his holding, may, if he desires that the improvement be made, deliver, or cause to be delivered, to his landlord, a request in writing, calling upon him to make the improvement within a reasonable time; and, if the landlord is unable or neglects to comply with that request, may make the improvement himself.

Registration of landlord's improvements.

80. (1) A landlord may, by application to such Revenue-officer as the Local Government may appoint, register any improvement which he has lawfully made, or which has been lawfully made at his expense, or which he has assisted a tenant in making.

(2) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local inquiry or otherwise, as the Local Government from time to time by rule directs.

(3) The officer receiving the application may reject it if it has not been made within twelve months—

(*a*) in the case of improvements made before the commencement of this Act—from the commencement of this Act;

(*b*) in the case of improvements made after the commencement of this Act—from the date of the completion of the work.

Application to record evidence as to improvement.

81. (1) If any landlord or tenant of a holding desires that evidence relating to any improvement made in respect thereof be recorded, he may apply to a Revenue-officer, who shall thereupon, at a time and place of which notice shall be given to the parties, record the evidence, unless he considers that there are no reasonable grounds for making the application, or it is made to appear that the subject-matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Compensation for raiyats' improvements.

82. (1) Every raiyat who is ejected from his holding shall be entitled to compensation for improvements which have been made in respect thereof in accordance with this Act by him, or by his predecessor in interest, and for which compensation has not already been paid.

(2) Whenever a Court makes a decree or order for the ejectment of a raiyat, it shall determine the amount of compensation (if any) due under this section to the raiyat for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the raiyat.

(3) No compensation under this section for an improvement shall be claimable where the raiyat has made the improvement in pursuance of a contract or under a lease binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

(4) Improvements made by a raiyat between the 2nd day of March 1883, and the commencement of this Act, shall be deemed to have been made in accordance with this Act.

(5) The Local Government may, from time to time, by notification in the official Gazette, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under this section for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

Principle on which compensation is to be estimated.

83. (1) In estimating the compensation to be awarded under the last foregoing section for an improvement, regard shall be had—

(*a*) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the condition of the improvement, and the probable duration of its effects;

(*c*) to the labour and capital required for the making of such an improvement;

(*d*) to any reduction or remission of rent or any other advantage given by the landlord to the raiyat in consideration of the improvement; and

(*e*) in the case of a reclamation or of the conversion of unirrigated into irrigated land, to the length of time during which the raiyat has had the benefit of the improvement at an unenhanced rent.

(2) When the amount of the compensation has been assessed, the Court may, if the landlord and raiyat agree, direct that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

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Acquisition of land for building and other purposes.

Acquisition of land for building and other purposes.

84. A Civil Court may, on the application of the landlord of a holding, and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the estate in which it is comprised, including the use of the ground as building ground, or for any religious, educational, or charitable purpose,

and on being satisfied on the certificate of the Collector that the purpose is reasonable and sufficient,

authorise the acquisition thereof by the landlord upon such conditions as the Court may think fit, and require the tenant to sell his interest in the whole or such part of the holding to the landlord upon such terms as may be approved by the Court, including full compensation to the tenant.

Sub-letting.

Restrictions on sub-letting.

85. (1) If a raiyat sub-lets otherwise than by a registered instrument, the sub-lease shall not be valid against his landlord unless made with the landlord's consent.

(2) A sub-lease by a raiyat shall not be admitted to registration if it purports to create a term exceeding nine years.

(3) Where a raiyat has, without the consent of his landlord, granted a sub-lease by an instrument registered before the commencement of this Act, the sub-lease shall not be valid for more than nine years from the commencement of this Act.

Surrender and Abandonment.

Surrender.

86. (1) A raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(2) But, notwithstanding the surrender, the raiyat shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following the date of the surrender, unless he gives to his landlord, at least three months before he surrenders, notice of his intention to surrender.

(3) When a raiyat has surrendered his holding, the Court shall, in the following cases, for the purposes of sub-section 2, presume, until the contrary is shown, that such notice was so given, namely :—

(*a*) if the raiyat takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(*b*) if the raiyat ceases, at least three months before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate.

(4) The raiyat may, if he thinks fit, cause the notice to be served through the Civil Court within the jurisdiction of which the holding or any portion of it is situate.

(5) When a raiyat has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(6) When a holding is subject to an incumbrance secured by a registered instrument, the surrender of the holding shall not be valid unless it is made with the consent of the landlord and the incumbrancer.

(7) Save as provided in the last foregoing sub-section, nothing in this section shall affect any arrangement by which a raiyat and his landlord may arrange for a surrender of the whole or a part of the holding.

Abandonment.

87. (1) If a raiyat voluntarily abandons his residence without notice to his landlord and without arranging for payment of his rent as it falls due, and ceases to cultivate his holding either by himself or by some other person, the landlord may, at any time after the expiration of the agricultural year in which the raiyat so abandons and ceases to cultivate, enter on the holding, and let it to another tenant, or take it into cultivation himself.

(2) Before a landlord enters under this section, he shall file a notice in the prescribed form in the Collector's office, stating that he has treated the holding as abandoned, and is about to enter on it accordingly; and the Collector shall cause the notice to be published in such manner as the Local Government, by rule, directs.

(3) When a landlord enters under this section, the raiyat shall be entitled to institute a suit for recovery of possession of the land at any time not later than the expiration of two years, or, in the case of a non-occupancy-raiyat, six months, from the date of the publication of the notice; and thereupon the Court may, on being satisfied that the raiyat did not voluntarily abandon his holding, order recovery of possession on such terms (if any) with respect to compensation to persons injured and payment of arrears of rent as to the Court may seem just.

(4) Where the whole or part of a holding has been sub-let by a registered instrument, the landlord shall, before entering under this section on the holding, offer the whole holding to the sub lessee for the remainder of the term of the sub-lease at the rent paid by the raiyat who has ceased to cultivate the holding, and on condition of the sub-lessee paying up all arrears due from that raiyat. If the sub-lessee refuses or neglects within a reasonable time to accept the offer, the landlord may avoid the sub-lease, and may enter on the holding, and let it to another tenant, or cultivate it himself, as provided in sub-sections 1 and 2.

Sub-division of Tenancy.

Division of tenancy not binding on landlord without his consent.

88. A division of tenure or holding, or distribution of the rent payable in respect thereof, shall not be binding on the landlord unless it is made with his consent in writing.

Ejectment.

No ejectment except in execution of decree.

89. No tenant shall be ejected from his tenure or holding except in execution of a decree.

Measurements.

Landlord's right to measure land.

90. (1) Subject to the provisions of this section and any contract, a landlord may, by himself, or by any person authorized by him in this behalf, enter on and measure all land comprised in his estate or tenure, other than land exempt from the payment of revenue.

(2) A landlord shall not, without the consent of the tenant, or the written permission of the Collector, be entitled to measure land more than once in ten years, except in the following cases (namely): —

(*a*) where the area of the tenure or holding is liable, by reason of alluvion or diluvion, to vary from year to year, and the rent payable depends on the area;

(*b*) where the area under cultivation is liable to vary from year to year, and the rent payable depends on the area under cultivation;

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(c) where the landlord is a purchaser otherwise than by voluntary transfer, and not more than two years have elapsed since the date of his entry under the purchase.

(3) The ten years shall be computed from the date of the last measurement, whether made before or after the commencement of this Act.

Power for Court to order tenant to attend and point out boundaries.

91. (1) Where a landlord desires to measure any land which he is entitled to measure under the last foregoing section, the Civil Court may, on the application of the landlord, make an order requiring the tenant to attend and point out the boundaries of the land.

(2) If the tenant refuses or neglects to comply with the order, a map or other record of the boundaries and measurements of the land, prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

Standard of measurement.

92. (1) Every measurement of land made by order of a Civil Court, or of a Revenue officer, in any suit or proceeding between a landlord and tenant, shall be made by the acre, unless the Court or Revenue-officer directs that it be made by any other specified standard.

(2) If the rights of the parties are regulated by any local measure other than the acre, the acre shall be converted into the local measure for the purposes of the suit or proceeding.

(3) The Local Government may, after local enquiry, make rules declaring for any local area the standard or standards of measurement locally in use in that area, and every declaration so made shall be presumed to be correct until the contrary is shown.

Managers.

Power to call upon co-owners to show cause why they should not appoint a common manager.

93. When any dispute exists between co-owners of an estate or tenure as to the management thereof, and in consequence there has ensued, or is likely to ensue,

(a) inconvenience to the public, or

(b) injury to private rights,

the District Judge may, on the application, in case *a*, of the Collector, and, in case *b*, of any one having an interest in the estate or tenure, direct a notice to be served on all the co-owners, calling on them to show cause why they should not appoint a common manager :

Provided that a co-owner of an estate or tenure shall not be entitled to apply under this section unless he is actually in possession of the interest he claims, and, if he is a co-owner of an estate, unless his name and the extent of his interest are registered under the Land Registration Act, 1876.

Power to order them to appoint a manager if cause is not shown.

94. If the co-owners fail to show cause as aforesaid within one month after service of a notice under the last foregoing section, the District Judge may make an order directing them to appoint a common manager, and a copy of the order shall be served on any co-owner who did not appear before it was made.

Power to appoint manager if order is not obeyed.

95. If the co-owners do not, within such period, not being less than one month after the making of an order under the last foregoing section, as the District Judge may fix in this behalf, or, where the order has been served as directed by that section, within a like period after such service, appoint a common manager, and

report the appointment for the information of the District Judge, the District Judge may, unless it is shown to his satisfaction that there is a prospect of a satisfactory arrangement being made within a reasonable time,

(*a*) direct that the estate or tenure be managed by the Court of Wards in any case in which the Court of Wards consents to undertake the management thereof; or

(*b*) in any case appoint a manager.

Power to nominate person to act in all cases under clause *b* of last section.

96. The Local Government may nominate a person for any local area to manage all estates and tenures within that local area for which it may be necessary to appoint a manager under clause *b* of the last foregoing section; and, when any person has been so nominated, no other person shall be appointed manager under that clause by the District Judge, unless in the case of any estate the Judge thinks fit to appoint one of the co-owners themselves as manager.

The Court of Wards Act, 1879, applicable to management by Court of Wards.

97. In any case in which the Court of Wards undertakes under section 95 the management of an estate or tenure, so much of the provisions of the Court of Wards Act, 1879, as relates to the management of immoveable property shall apply to the management.

Provisions applicable to manager.

98. (1) A manager appointed under section 95 may, if the District Judge thinks fit, be remunerated by a fixed salary or percentage of the money collected by him as manager, or partly in one way and partly in the other, as the District Judge from time to time directs.

(2) He shall give such security for the proper discharge of his duties as the district Judge directs.

(3) He shall, subject to the control of the District Judge, have, for the purposes of management, the same powers as the co owners jointly might but for his appointment have exercised, and the co-owners shall not exercise any such power.

(4) He shall deal with and distribute the profits in accordance with the orders of the District Judge.

(5) He shall keep regular accounts, and allow the co-owners or any of them to inspect and take copies of those accounts.

(6) He shall pass his accounts at such period and in such form as the District Judge may direct.

(7) He may make any application which the proprietors could make under section 103.

(8) He shall be removable by the order of the District Judge, and not otherwise.

Power to restore management to co-owners.

99. When an estate or tenure has been placed under the management of the Court of Wards, or a manager has been appointed for the same under section 95, the District Judge may at any time direct that the management of it be restored to the co-owners, if he is satisfied that the management will be conducted by them without inconvenience to the public or injury to private rights.

Power to make rules.

100. The High Court may, from time to time, make rules defining the powers and duties of managers under the foregoing sections.

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CHAPTER X.

RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

Power to order survey and preparation of record-of-right.

101. (1) The Local Government may, in any case with the previous sanction of the Governor-General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that a survey be made, and a record-of-rights be prepared, in respect of the lands in a local area by a Revenue-officer.

(2) The cases in which an order may be made under this section without the previous sanction of the Governor-General in Council are the following (namely) :—

(*a*) where the landlord or a large proportion of the landlords or of the tenants applies for such an order, and deposits, or gives security for, such amount, for the payment of expenses, as the Local Government directs ;

(*b*) where the preparation of such a record is calculated to settle or avert a serious dispute existing or likely to arise between the tenants and their landlords generally ;

(*c*) where the local area is comprised in an estate or tenure which belongs to or is managed by the Government or the Court of Wards ; and

(*d*) where a settlement of revenue is being made in respect of the local area.

(3) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

Particulars to be recorded.

102. Where an order is made under the last foregoing section, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following (namely) :—

(*a*) the name of each tenant ;

(*b*) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat, or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure ;

(*c*) the situation, quantity, and boundaries of the land held by him ;

(*d*) the name of his landlord ;

(*e*) the rent payable ;

(*f*) the mode in which that rent has been fixed, whether by contract, by order of a Court, or otherwise ;

(*g*) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases ;

(*h*) the special conditions and incidents (if any) of the tenancy.

Power for Revenue-officer to record particulars on application of proprietor or tenure-holder.

103. On the application of a proprietor or tenure-holder, and on his depositing or giving security for the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record the particulars specified in the last foregoing section with respect to the estate or tenure or any part thereof.

Procedure as to recording or settling rents.

104. (1) When, in any proceeding under this chapter, it does not appear that the tenant is holding land in excess of, or less than, that for which he is paying rent, and neither

the landlord nor the tenant applies for a settlement of rent, the officer shall record the rent payable by the tenant, and the land in respect of which the rent is payable.

(2) When it appears that a tenant is holding land in excess of, or less than, that for which he is paying rent, or either the landlord or the tenant applies for a settlement of rent, or in any case under section 101, sub-section 2, clause *d*, the officer shall settle a fair and equitable rent in respect of the land held by the tenant.

(3) In settling rents under this section, the officer shall presume, until the contrary is proved, that the existing rent is fair and equitable, and shall have regard to the rules laid down in this Act for the guidance of the Civil Court in increasing or reducing rents, as the case may be.

Publication of record.

105. (1) When the Revenue-officer has completed a record made under this chapter, he shall cause a draft thereof to be locally published in the prescribed manner and for the prescribed period, and shall receive and consider any objection which may be made to any entry therein during the period of publication.

(2) After the expiration of this period the Revenue-officer shall finally frame the record, and shall cause it to be locally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this chapter.

Procedure in case of dispute as to entries in record.

106. If at any time before the final publication of the record under the last foregoing section a dispute arises as to the correctness of any entry (not being an entry of a rent settled under this chapter), or as to the propriety of any omission, which the Revenue-officer proposes to make or has made therein or therefrom, the Revenue-officer shall hear and decide the dispute.

Procedure to be adopted by Revenue-officer.

107. In all proceedings for the settlement of rents under this chapter, and in all proceedings under the last foregoing section, the Revenue-officer shall, subject to rules made by the Local Government under this Act, adopt the procedure laid down in the Code of Civil Procedure for the trial of suits, and his decision in every such proceeding shall have the force of a decree.

Appeals from decisions of Revenue-officers.

108. (1) The Local Government shall appoint one or more persons to be a Special Judge or Special Judges for the purpose of hearing appeals from the decisions of Revenue-officers under this chapter.

(2) An appeal shall lie to the Special Judge from the decision of a Revenue-officer under this chapter, and the provisions of the Code of Civil Procedure relating to appeals shall, as nearly as may be, apply to all such appeals.

(3) Subject to the provisions of Chapter XLII. of the Code of Civil Procedure, an appeal shall lie to the High Court from the decision of a Special Judge in any case under section 106 as if he were a Court subordinate to the High Court within the meaning of the first section of that chapter:

Provided that, if in a second appeal the High Court alters the decision of the Special Judge in respect of any of the particulars with reference to which the rent of any tenure or holding has been settled, the Court may settle a new rent for the tenure or holding, but in so doing shall be guided by the rents of the other tenures or holdings of the same class comprised in the same record as ascertained or settled under section 104.

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Undisputed entries in record to be presumptive evidence.

109. (1) Every record made under this chapter shall distinguish between the disputed and the undisputed entries therein.

(2) Every undisputed entry in the record shall be presumed to be correct until the contrary is proved.

Time at which settlement of rent is to take effect.

110. When any rent is settled under this chapter, the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record.

Stay of proceedings in Civil Court during preparation of record.

111. When an order has been made under section 101,—

(*a*) a Civil Court shall not, until the final publication of the record, entertain a suit for application or the alteration of the rent or the determination of the status of any tenant in the area to which the order applies; and

(*b*) the High Court may, if it thinks fit, transfer to the Revenue-officer any proceedings pending in a Civil Court for the alteration of any such rent or for the determination of any of the matters specified or referred to in section 102.

Power to authorize a special settlement in special cases.

112. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, on being satisfied that the exercise of the powers hereinafter mentioned is necessary in the interests of public order or of the local welfare, invest a Revenue-officer acting under this chapter with the following powers or either of them (namely):—

(*a*) power to settle all rents;

(*b*) power, when settling rents, to reduce rents if, in the opinion of the officer, the maintenance of existing rents would on any ground, whether specified in this Act or not, be unfair or inequitable.

(2) The powers given under this section may be made exercisable within a specified area either generally or with reference to specified cases or classes of cases.

(3) When the Local Government takes any action under this section, the settlement-record prepared by the Revenue-officer shall not take effect until it has been finally confirmed by the Governor-General in Council.

Period for which rents as settled are to remain unaltered

113. When the rent of a tenure or holding is settled under this chapter, it shall not, except on the ground of a landlord's improvement or of a subsequent alteration in the area of the tenure or holding, be enhanced, in the case of a tenure or an occupancy-holding for fifteen years, and, in the case of a non-occupancy-holding, if the rent is settled in any case under section 112, or on the application of the landlord under section 104, for five years. The periods of fifteen and five years shall be counted from the date of the final publication of the record.

Expenses of proceedings under chapter.

114. Where an order is made under this chapter in any case except under section 101, sub-section 2, clause *d*, the expenses incurred by the Government in carrying out the provisions of this chapter in any local area, or such part of those expenses as the Local Government may direct, shall be defrayed, by the landlords and tenants of land in that local area, in such proportions as the Local Government, having regard to all the circumstances of each case, may determine; and the proportion of those expenses so to be defrayed by any person shall be recoverable by the Government from him as if it were an arrear of revenue due by him.

115. When the particulars mentioned in section 102, clause *b*, have been recorded under this chapter in respect of any tenancy, the presumption under section 50 shall not thereafter apply to that tenancy.

Presumption as to fixity of rent not to apply where record has been prepared.

CHAPTER XI.

RECORD OF PROPRIETORS' PRIVATE LANDS.

116. Nothing in Chapter V. shall confer a right of occupancy in, and nothing in Chapter VI. shall apply to, a proprietor's private lands known in Bengal as khámár, nij, or nij-jot, and in Behar as zirát, nij, sír, or kamat. where any such land is held under a lease for a term of years or under a lease from year to year.

Saving as to khámár land.

117. The Local Government may, from time to time, make an order directing a Revenue-officer to make a survey and record of all the lands in a specified local area which are a proprietor's private lands within the meaning of the last foregoing section.

Power for Government to order survey and record of proprietor's private lands.

118. In the case of any land alleged to be a proprietor's private land, on the application of the proprietor or of any tenant of the land, and on his depositing the required amount for expenses, a Revenue-officer may, subject to and in accordance with rules made in this behalf by the Local Government, ascertain and record whether the land is or is not a proprietor's private land.

Power for Revenue-officer to record private land on application of proprietor or tenant.

119. When a Revenue officer proceeds under either of the two last foregoing sections, the provisions of sections 105 to 109, both inclusive, shall apply.

Procedure for recording private land.

Rules for determination of proprietor's private land.

120. (1) The Revenue-officer shall record as a proprietor's private land—

(*a*) land which is proved to have been cultivated as khamár, zirát, sír, nij, nij-jot, or kamat by the proprietor himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the passing of this Act, and

(*b*) cultivated land which is recognized by village usage as proprietor's khámár, zirát, sír, nij, nij-jot, or kamat.

(2) In determining whether any other land ought to be recorded as a proprietor's private land, the officer shall have regard to local custom, and to the question whether the land was, before the 2nd day of March 1883, specifically let as proprietor's private land, and to any other evidence that may be produced; but shall presume that land is not a proprietor's private land until the contrary is shown.

(3) If any question arises in a Civil Court as to whether land is or is not a proprietor's private land, the Court shall have regard to the rules laid down in this section for the guidance of Revenue-officers.

CHAPTER XII.

DISTRAINT.

121. Where an arrear of rent is due to the landlord of a raiyat or under-raiyat, and has not been due for more than a year, and no security has been accepted therefor by the landlord, the landlord may. in addition to any other

Cases in which an application for distraint may be made.

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remedy to which he is entitled by law, present an application to the Civil Court, requesting the Court to recover the arrear by distraining, while in the possession of the cultivator,—

(*a*) any crops or other products of the earth standing or ungathered on the holding;

(*b*) any crops or other products of the earth which have been grown on the holding, and have been reaped or gathered and are deposited on the holding, or on a threshing-floor or place for treading out grain or the like, whether in the fields or within a homestead:

Provided that an application shall not be made under this section—

(1) by a proprietor or manager as defined under the Land Registration Act, 1876, or a mortgagee of such a proprietor or manager, unless his name and the extent of his interest in the land in respect of which the arrear is due have been registered under the provisions of that Act; or

(2) for the recovery of any sum in excess of the rent payable for the holding in the preceding agricultural year, unless that sum is payable under a written contract or in consequence of a proceeding under this Act or an enactment hereby repealed; or

(3) in respect of the produce of any part of the holding which the tenant has sub-let with the written consent of the landlord.

Form of application.

122. (1) Every application under the last foregoing section shall specify—

(*a*) the holding in respect of which the arrear is claimed, and the boundaries thereof, or such other particulars as may suffice for its identification;

(*b*) the name of the tenant;

(*c*) the period in respect of which the arrear is claimed;

(*d*) the amount of the arrear, with the interest (if any) claimed thereon, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the contract, or proceeding, as the case may be, under which that amount is payable;

(*e*) the nature and approximate value of the produce to be distrained;

(*f*) the place where it is to be found, or such other particulars as may suffice for its identification; and

(*g*) if it is standing or ungathered, the time at which it is likely to be cut or gathered.

(2) The application shall be signed and verified in the manner prescribed by the Code of Civil Procedure for the signing and verification of plaints.

Procedure on receipt of application.

123. (1) The applicant shall, at the time of filing an application under the foregoing sections, file in Court such documentary evidence (if any) as he may consider necessary for the purposes of the application.

(2) The Court may, if it thinks fit, examine the applicant, and shall, with as little delay as possible, admit the application or reject it, or permit the applicant to furnish additional evidence in support of it.

(3) Where a Court cannot forthwith admit or reject an application under sub-section 2, it may, if it thinks fit, make an order prohibiting the removal of the produce specified in the application pending the execution of an order for distraining the same or the rejection of the application.

(4) When an order for distraining any produce is made under this section at a considerable time before the produce is likely to be cut or gathered, the Court may suspend the execution of the order for such time as it thinks fit, and may, if it thinks fit, make a further order prohibiting the removal of the produce pending the execution of the order for distraint.

124. If an application is admitted under the last foregoing section, the Court shall depute an officer to distrain the produce specified therein, or such portion of that produce as it thinks fit; and the officer shall proceed to the place where the produce is, and distrain the produce by taking charge of it himself or placing some other person in charge of it in his behalf, and publishing a notification of the distraint in accordance with rules to that effect to be made by the Hight Court:

Execution of order for distraint.

Provided that produce which from its nature does not admit of being stored shall not be distrained under this section at any time less than twenty days before the time when it would be fit for reaping or gathering.

125. (1) The distraining officer shall, at the time of making the distraint, serve on the defaulter a written demand for the arrear due, and the costs incurred in making the distraint, with an account exhibiting the grounds on which the distraint is made.

Service of demand and account.

(2) Where the distraining officer has reason to believe that a person other than the defaulter is the owner of the property distrained, he shall serve copies of the demand and account on that person likewise.

(3) The demand and account shall, if practicable, be served personally; but if a person on whom they are to be served absconds or conceals himself, or cannot otherwise be found, the officer shall affix copies of the demand and account on a conspicuous part of the outside of the house in which he usually resides.

126. (1) A distraint under this chapter shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Right to reap, &c., produce.

(2) If the person entitled to do so fails to do so at the proper time, the distraining officer shall cause any standing crops or ungathered products distrained to be reaped or gathered when ripe, and stored in such granaries or other places as are commonly used for the purpose [illegible] or in some other convenient place in the neighbourhood, or shall do whatever else may be necessary for the due preservation of the same.

(3) In either case the distrained property shall remain in the charge of the distraining officer, or of some other person appointed by him in this behalf.

127. (1) Unless the demand, with all costs of the distraint, be immediately satisfied, the distraining officer shall issue a proclamation specifying [illegible] of the property distrained and the demand for which it is distrained, and notifying that he will, at a place and on a day specified, not being less than three or more than seven days after the time of making the distraint, sell the distrained property by public auction:

Sale-proclamation to be issued unless demand is satisfied.

Provided that when the crops or products distrained from their nature admit of being stored, but have not yet been stored, the day of the sale shall be so fixed as to admit of their being made ready for storing before its arrival.

(2) The proclamation shall be stuck up on a conspicuous place in the village in which the land is situate for which the arrears of rent are claimed.

Place of sale.

128. The sale shall be held at the place where the distrained property is, or at the nearest place of public resort if the distraining officer is of opinion that it is likely to sell there to better advantage.

When produce may be sold standing.

129. (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself, or by any person appointed by him in this behalf, and do all that is necessary for the purpose of tending and reaping or gathering them.

Manner of sale.

130. The property shall be sold by public auction, in one or more lots, as the officer holding the sale may think advisable; and if the demand, with the costs of distraint and sale, is satisfied by the sale of a portion of the property, the distraint shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

131. If, on the property being put up for sale, a fair price (in the estimation of the officer holding the sale) is not offered for it, and if the owner of the property, or a person authorized to act in his behalf, applies to have the sale postponed till the next day, or (if a market is held at the place of sale) the next market-day, the sale shall be postponed until that day, and shall be then completed, whatever price may be offered for the property.

Payment of purchase-money.

132. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold.

Certificate to be given to purchaser.

133. When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale how to be applied.

134. (1) From the proceeds of every sale of distrained property under this chapter, the officer holding the sale shall pay the costs of the distraint and sale, calculated on a scale of charges prescribed by rules to be made, from time to time, by the Local Government in this behalf.

(2) The remainder shall be applied to the discharge of the arrear for which the distress was made, with interest thereon up to the day of sale; and the surplus (if any) shall be paid to the person whose property has been sold.

Certain persons may not purchase.

135. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Procedure where demand is paid before the sale.

136. (1) If at any time after a distraint has been made under this chapter, and before the sale of the distrained property, the defaulter, or the owner of the distrained property where he is not the defaulter, deposits in the Court issuing the order of distraint, or in the hands of the distraining officer, the amount specified in the demand served under section 125, with all costs which may have

been incurred after the service of the demand, the Court or officer, as the case may be, shall grant a receipt for the same, and the distraint shall forthwith be withdrawn.

(2) When the distraining officer receives the deposit, he shall forthwith pay it into the Court.

(3) A receipt granted under this section to an owner of distrained property not being the defaulter shall afford a full protection to him against any subsequent claim for the arrears of rent on account of which the distraint was made.

(4) After the expiration of one month from the date of a deposit being made under this section, the Court shall pay therefrom to the applicant for distraint the amount due to him, unless in the meanwhile the owner of the property distrained has instituted a suit against the applicant, contesting the legality of the distraint, and claiming compensation in respect of the same.

(5) A landlord shall not be deemed to have consented to his tenant's sub-letting the holding or any part thereof merely by reason of his having received an amount deposited under this section by an inferior tenant.

Amount paid by under-tenant for his lessor may be deducted from rent.

137. (1) When an inferior tenant, on his property being lawfully distrained under this chapter for the default of a superior tenant, makes any payment under the last foregoing section, he shall be entitled to deduct the amount of that payment from any rent payable by him to his immediate landlord, and that landlord, if he is not the defaulter, shall in like manner be entitled to deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

(2) Nothing in this section shall affect the right of an inferior tenant making a payment under the last foregoing section to institute a suit for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

Conflict between rights of superior and inferior landlords.

138. When land is sub-let, and any conflict arises under this chapter between the rights of a superior and of an inferior landlord who distrain the same property, the right of the superior landlord shall prevail.

Distraint of property which is under attachment.

139. When any conflict arises between an order for distraint issued under this chapter and an order issued by a Civil Court for the attachment or sale of the property which is the subject of the distraint, the order for distraint shall prevail: but, if the property is sold under that order, the surplus proceeds of the sale shall not be paid under section 134 to the owner of the property without the sanction of the Court by which the order of attachment or sale was issued.

Suit for compensation for wrongful distraint.

140. No appeal shall lie from any order passed by a Civil Court under this chapter; but any person whose property is distrained on an application made under section 121 in any case in which such an application is not permitted by that section may institute a suit against the applicant for the recovery of compensation.

Power for Local Government to authorize distraint in certain cases.

141. (1) When the Local Government is of opinion that in any local area or in any class of cases it would, by reason of the character of the cultivation or the habits of the cultivators, be impracticable for a landlord to realize his rent by an application under this chapter to the Civil Court, it may, from time to time, by order, authorize the landlord to distrain, by himself or his agent, any produce for the distraint of which he would be entitled to apply under this chapter to the Civil Court:

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Provided that every person distraining any produce under such authorization shall proceed in the manner prescribed by section 124, and shall forthwith give notice, in such form as the High Court may, by rule, prescribe, to the Civil Court having jurisdiction to entertain an application for distraining the produce, and that Court shall, with no avoidable delay, depute an officer to take charge of the produce distrained.

(2) When an officer of the Court has taken charge of any distrained produce under this section, the proceedings shall thereafter be conducted in all respects as if he had distrained it under section 124.

(3) The Local Government may at any time rescind any order made by it under this section.

Power for High Court to make rules.

142. The High Court may, from time to time, make rules consistent with this Act for regulating the procedure in all cases under this chapter.

CHAPTER XIII.

JUDICIAL PROCEDURE.

Power to modify Civil Procedure Code in its application to landlord and tenant suits.

143. (1) The High Court may, from time to time, with the approval of the Governor-General in Council, make rules consistent with this Act declaring that any portions of the Code of Civil Procedure shall not apply to suits between landlord and tenant as such or to any specified classes of such suits, or shall apply to them subject to modifications specified in the rules.

(2) Subject to any rules so made, and subject also to the other provisions of this Act, the Code of Civil Procedure shall apply to all such suits.

Jurisdiction in proceedings under Act.

144. (1) The cause of action in all suits between landlord and tenant, as such shall, for the purposes of the Code of Civil Procedure,* be deemed to have arisen within the local limits of the jurisdiction of the Civil Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the suit is brought.

(2) When under this Act a Civil Court is authorized to make an order on the application of a landlord or a tenant, the application shall be made to the Court which would have jurisdiction to entertain a suit for the possession of the tenure or holding in connection with which the application is brought.

Náibs or gumáshtas to be recognized agents.

145. Every náib or gumáshta of a landlord empowered in this behalf by a written authority under the hand of the landlord shall, for the pusposes of every such suit or application, be deemed to be the recognized agent of the landlord within the meaning of the Code of Civil Procedure, notwithstanding that the landlord may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending, or in which the application is made.

Special register of suits.

146. The particulars referred to in section 58 of the Code of Civil Procedure shall, in the case of such suits, instead of being entered in the register of civil suits prescribed by that section, be entered in a special register to be kept by each Civil Court, in such form as the Local Government may, from time to time prescribe in this behalf.

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Successive rent-suits.

147. Subject to the provisions of section 373 of the Code of Civil Procedure, where a landlord has instituted a suit against a raiyat for the recovery of any rent of his holding, the landlord shall not institute another suit against him for the recovery of any rent of that holding until after three months from the date of the institution of the previous suit.

Procedure in rent-suits.

148. The following rules shall apply to suits for the recovery of rent:—

(*a*) sections 121 to 127 (both inclusive), 129, 305, and 320 to 326 (both inclusive) of the Code of Civil Procedure, shall not apply to any such suit:

(*b*) the plaint shall contain, in addition to the particulars specified in section 50 of the Code of Civil Procedure, a statement of the situation, designation, extent, and boundaries of the land held by the tenant; or, where the plaintiff is unable to give the extent or boundaries, in lieu thereof a description sufficient for the identification:

(*c*) the summons shall be for the final disposal of the suit, unless the Court is of opinion that the summons should be for the settlement of issues only:

(*d*) the service of the summons may, if the High Court by rule, either generally, or specially for any local area, so directs, be effected, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the defendant and registered under Part III. of the Indian Post Office Act, 1866;

when a summons is so forwarded in a letter, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served:

(*e*) a written statement shall not be filed without the leave of the Court:

(*f*) the rules for recording the evidence of witnesses prescribed by section 189 of the Code of Civil Procedure shall apply, whether an appeal is allowed or not:

(*g*) the Court may, when passing the decree, order, on the oral application of the decree-holder, the execution thereof, unless it is a decree for ejectment for arrears:

(*h*) notwithstanding anything contained in section 232 of the Code of Civil Procedure, an application for the execution of a decree for arrears obtained by a landlord shall not be made by an assignee of the decree unless the landlord's interest in the land has become and is vested in him.

Payment into Court of money admitted to be due to third person.

149. (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due, not to the plaintiff, but to a third person, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(2) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person, within three months from the receipt of the notice, institutes a suit against the plaintiff, and therein obtains an order restraining payment out of the money, it shall be paid out to the plaintiff on his application.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section 3.

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150. When a defendant admits that money is due from him to the plaintiff on account of rent, but pleads that the amount claimed is in excess of the amount due, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

Payment into Court of money admitted to be due to landlord.

151. When a defendant is liable to pay money into Court under either of the two last foregoing sections, if the Court thinks that there are sufficient reasons for so ordering, it may take cognizance of the defendant's plea on his paying into Court such reasonable portion of the money as the Court directs.

Provision as to payment of portion of money.

152. When a defendant pays money into Court under either of the said sections, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person as the case may be.

Court to grant receipt.

153. An appeal shall not lie from any decree or order passed, whether in the first instance or on appeal, in any suit instituted by a landlord for the recovery of rent where—

Appeals in rent-suits.

(*a*) the decree or order is passed by a District Judge, Additional Judge, or Subordinate Judge, and the amount claimed in the suit does not exceed one hundred rupees, or

(*b*) the decree or order is passed by any other judicial officer specially empowered by the Local Government to exercise final jurisdiction under this section, and the amount claimed in the suit does not exceed fifty rupees;

unless in either case the decree or order has decided a question relating to title to land or to some interest in land as between parties having conflicting claims thereto, or a question of a right to enhance or vary the rent of a tenant, or a question of the amount of rent annually payable by a tenant:

Provided that the District Judge may call for the record of any case in which a judicial officer as aforesaid has passed a decree or order to which this section applies, if it appears that the judicial officer has exercised a jurisdiction not vested in him by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of his jurisdiction illegally or with material irregularity; and may pass such order as the District Judge thinks fit.

154. A decree for enhancement of rent under this Act, if passed in a suit instituted in the first eight months of an agricultural year, shall ordinarily take effect on the commencement of the agricultural year next following; and, if passed in a suit instituted in the last four months of the agricultural year, shall ordinarily take effect on the commencement of the agricultural year next but one following; but nothing in this section shall prevent the Court from fixing, for special reasons, a later date from which any such decree shall take effect.

Date from which decree for enhancement takes effect.

Relief against forfeitures.

155. (1) A suit for the ejectment of a tenant, on the ground—

(*a*) that he has used the land in a manner which renders it unfit for the purposes of the tenancy, or

(*b*) that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment.

shall not be entertained unless the landlord has served, in the prescribed manner, a notice on the tenant, specifying the particular misuse or breach complained of, and, where the misuse or breach is capable of remedy, requiring the tenant to remedy the same, and, in any case, to pay reasonable compensation for the misuse or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, for special reasons, extend a period fixed by it under sub-section 2.

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of ejected raiyats in respect of crops and land prepared for sowing.

156. The following rules shall apply in the case of every raiyat ejected from a holding :—

(*a*) when the raiyat has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the crops as estimated by the Court executing the decree for ejectment;

(*b*) when the raiyat has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops in that land, he shall be entitled to receive from the landlord the value of the labour and capital expended by him in so preparing the land, as estimated by the Court executing the decree for ejectment, together with reasonable interest on that value;

(*c*) but a raiyat shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section where, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage;

(*d*) if the landlord elects under this section to allow a raiyat to retain possession of the land, the raiyat shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court executing the decree for ejectment may deem reasonable.

Power for Court to fix fair rent as alternative to ejectment.

157. When a plaintiff institutes a suit for the ejectment of a trespasser, he may, if he thinks fit, claim as alternative relief that the defendant be declared liable to pay for the land in his possession a fair and equitable rent to be determined by the Court, and the Court may grant such relief accordingly.

Application to determine incidents of tenancy.

158. (1) The Court having jurisdiction to determine a suit for the possession of land may, on the application of either the landlord or the tenant of the land, determine all or any of the following matters (namely) :—

(*a*) the situation, quantity, and boundaries of the land;

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(*b*) the name and description of the tenant thereof (if any);

(*c*) the class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy-raiyat, non-occupancy-raiyat, or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure; and

(*d*) the rent payable by him at the time of the application.

(2) If, in the opinion of the Court, any of these matters cannot be satisfactorily determined without a local inquiry, the Court may direct that a local inquiry be held under Chapter XXV. of the Code of Civil Procedure by such Revenue-officer as the Local Government may authorize in that behalf by rule made under section 392 of the said Code.

(3) The order on any application under this section shall have the effect of, and be subject to the like appeal as, a decree.

CHAPTER XIV.

SALE FOR ARREARS UNDER DECREE.

General powers of purchaser as to avoidance of incumbrances.

159. Where a tenure or holding is sold in execution of a decree for arrears due in respect thereof, the purchaser shall take subject to the interests defined in this chapter as "protected interests," but with power to annul the interests defined in this chapter as "incumbrances:"

Provided as follows:—

(*a*) a registered and notified incumbrance within the meaning of this chapter shall not be so annulled except in the case hereinafter mentioned in that behalf;

(*b*) the power to annul shall be exercisable only in manner by this chapter directed.

Protected interests.

160. The following shall be deemed to be protected interest within the meaning of this chapter:—

(*a*) any under-tenure existing from the time of the Permanent Settlement;

(*b*) any under-tenure recognized by the settlement-proceedings of any current temporary settlement as a tenure at a rent fixed for the period of that settlement;

(*c*) any lease of land whereon dwelling-houses, manufactories, or other permanent buildings, have been erected, or permanent gardens, plantations, tanks, canals, places of worship, or burning or burying grounds, have been made;

(*d*) any right of occupancy;

(*e*) the right of a non-occupancy-raiyat to hold for five years at a rent fixed under Chapter VI. by a Court, or under Chapter X. by a revenue-officer;

(*f*) any right conferred on an occupancy-raiyat to hold at a rent which was a fair and reasonable rent at the time the right was conferred; and

(*g*) any right or interest which the landlord at whose instance the tenure or holding is sold, or his predecessor in title, has expressly and in writing given the tenant for the time being permission to create

Meaning of "incumbrance" and "registered and notified incumbrance."

161. For the purposes of this chapter—

(*a*) the term "incumbrance," used with reference to a tenancy, means any lien, sub-tenancy, easement, or other right or interest created by the

tenant on his tenure or holding or in limitation of his own interest therein, and not being a protected interest as defined in the last foregoing section;

(*b*) the term "registered and notified incumbrance," used with reference to a tenure or holding sold or liable to sale in execution of a decree for an arrear of rent due in respect thereof, means an incumbrance created by a registered instrument, of which a copy has, not less than three months before the accrual of the arrear, been served on the landlord in manner hereinafter provided.

Application for sale of tenure or holding.

162. When a decree has been passed for an arrear of rent due for a tenure or holding, and the decree-holder applies under section 235 of the Code of Civil Procedure for the attachment and sale of the tenure or holding in execution of the decree, he shall produce a statement showing the parganá, estate, and village in which the land comprised in the tenure or holding is situate, the yearly rent payable for the same, and the total amount recoverable under the decree.

Order of attachment and proclamation of sale to be issued simultaneously.

163. (1) Notwithstanding anything contained in the Code of Civil Procedure, when the decree-holder makes the application mentioned in the last foregoing section, the Court shall, if under section 245 of the said Code it admits the application, and orders execution of the decree as applied for, issue simultaneously the order of attachment and the proclamation required by section 287 of the said Code.

(2) The proclamation shall, in addition to stating and specifying the particulars mentioned in section 287 of the said Code, announce—

(*a*) in the case of a tenure or a holding of a raiyat holding at fixed rates, that the tenure or holding will first be put up to auction subject to the registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount of the decree and costs, and that otherwise it will, if the decree-holder so desires, be sold on a subsequent day, of which due notice will be given, with power to annul all incumbrances; and

(*b*) in the case of an occupancy-holding, that the holding will be sold with power to annul all incumbrances.

(3) The proclamation shall, besides being made in the manner prescribed by section 289 of the said Code, be published by fixing up a copy thereof in a conspicuous place on the land comprised in the tenure or holding ordered to be sold, and shall also be published in such manner as the Local Government may, from time to time, direct in this behalf.

(4) Notwithstanding anything contained in section 290 of the said Code, the sale shall not, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days, calculated from the date on which the copy of the proclamation has been fixed up on the land comprised in the tenure or holding ordered to be sold.

Sale of tenure or holding subject to registered and notified incumbrances, and effect thereof.

164. (1) When a tenure or a holding at fixed rates has been advertised for sale under the last foregoing section, it shall be put up to auction, subject to registered and notified incumbrances; and, if the bidding reaches a sum sufficient to liquidate the amount of the decree and costs, including the costs of sale, the tenure or holding shall be sold subject to such incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by section 167, and not otherwise, annul any incumbrance upon the tenure or holding not being a registered and notified incumbrance.

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Sale of tenure or holding with power to avoid all incumbrances, and effect thereof.

165. (1) If the bidding for a tenure or a holding at fixed rates put up to auction under the last foregoing section does not reach a sum sufficient to liquidate the amount of the decree and costs as aforesaid, and if the decree-holder thereupon desires that the tenure or holding [illegible] power to avoid all incumbrances, the officer holding the sale shall adjourn the sale, and make a fresh proclamation under section 289 of the Code of Civil Procedure, announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by section 167 and not otherwise, annul any incumbrance on the tenure or holding.

Sale of occupancy-holding with power to avoid all incumbrances, and effect thereof.

166. (1) When an occupancy-holding has been advertised for sale under section 163, it shall be put up to auction and sold with power to avoid all incumbrances.

(2) The purchaser at a sale under this section may, in manner provided by the next following section, and not otherwise, annul any incumbrance on the holding.

Procedure for annulling incumbrances under the foregoing sections.

167. (1) A purchaser having power to annul an incumbrance under any of the foregoing sections, and desiring to annul the same, may, within one year from the date of the sale or the date on which he first has notice of the incumbrance, whichever is later, present to the Collector an application in writing, requesting him to serve on the incumbrancer a notice declaring that the incumbrance is annulled.

(2) Every such application must be accompanied by such fee for the service of the notice as the Board of Revenue may fix in this behalf.

(3) When an application for service of a notice is made to the Collector in manner prescribed by this section, he shall cause the notice to be served in compliance therewith, and the incumbrance shall be deemed to be annulled from the date on which it is so served.

(4) When a tenure or holding is sold in execution of a decree for arrears due in respect thereof, and there is on the tenure or holding a protected interest of the kind specified in section 160, clause *c*, the purchaser may, if he has power under this chapter to avoid all incumbrances, sue to enhance the rent of the land which is the subject of the protected interest. On proof that the land is held at a rent which was not at the time the lease was granted a fair rent, the Court may enhance the rent to such amount as appears to be fair and equitable.

This sub-section shall not apply to land which has been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Power to direct that occupancy-holdings be dealt with under foregoing sections as tenures.

168. (1) The Local Government may, from time to time, by notification in the official Gazette, direct that occupancy-holdings or any specified class of occupancy-holdings in any local area put up for sale in execution of decrees for rent due on them shall, before being put up with power to avoid all incumbrances, be put up subject to registered and notified incumbrances, and may, by like notification, rescind any such direction.

(2) While any such direction remains in force in respect of any local area, all occupancy-holdings, or, as the case may be, occupancy-holdings of the specified class in that local area, shall, for the purposes of sale under the foregoing sections of this chapter, be treated in all respects as if they were tenures.

Rules for disposal of sale-proceeds.

169. (1) In disposing of the proceeds of a sale under this chapter, the following rules, instead of those prescribed by section 295 of the Code of Civil Procedure, shall be observed, that is to say:—

(*a*) there shall first be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;

(*b*) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;

(*c*) if there remains a balance after these sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have fallen due to him in respect of the tenure or holding between the institution of the suit and the date of the sale;

(*d*) the balance (if any) remaining after the payment of the rent mentioned in clause *c* shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application.

(2) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause *c*, the Court shall determine the dispute, and the determination shall have the force of a decree.

Tenure or holding to be released from attachment only on payment into Court of amount of decree with costs, or on confession of satisfaction by decree-holder.

170. (1) Sections 278 to 283 (both inclusive) of the Code of Civil Procedure shall not apply to a tenure or holding attached in execution of a decree for arrears due thereon.

(2) When an order for the sale of a tenure or holding in execution of such a decree has been made, the tenure or holding shall not be released from attachment unless, before it is knocked down to the auction-purchaser, the amount of the decree, including the costs decreed, together with the costs incurred in order to the sale, is paid into Court, or the decree-holder makes an application for the release of the tenure or holding on the ground that the decree has been satisfied out of Court.

(3) The judgment-debtor or any person having in the tenure or holding any interest voidable on the sale may pay money into Court under this section.

Amount paid into Court to prevent sale to be in certain cases a mortgage-debt on the tenure or holding.

171. (1) When any person having, in a tenure or holding advertised for sale under this chapter, an interest which would be voidable upon the sale, pays into Court the amount requisite to prevent the sale,—

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at twelve per centum per annum, and secured by a mortgage of the tenure or holding to him;

(*b*) his mortgage shall take priority of every other charge on the tenure or holding other than a charge for arrear of rent; and

(*c*) he shall be entitled to possession of the tenure or holding as mortgagee of the tenant, and to retain possession of it as such until the debt, with the interest due thereon, has been discharged.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

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172. When a tenure or holding is advertised for sale under this chapter in execution of a decree against a superior tenant defaulting, and an inferior tenant, whose interest would be voidable upon the sale, pays money into Court in order to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord; and that landlord, if he is not the defaulter, may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord, and so on until the defaulter is reached.

Inferior tenant paying into Court may deduct from rent.

173. (1) Notwithstanding anything contained in section 294 of the Code of Civil Procedure, the holder of a decree in execution of which a tenure or holding is sold under this chapter may, without the permission of the Court, bid for or purchase the tenure or holding.

Decree-holder may bid at sale. Judgment-debtor may not.

(2) The judgment-debtor shall not bid for or purchase a tenure or holding so sold.

(3) When a judgment-debtor purchases by himself or through another person a tenure or holding so sold, the Court may, if it thinks fit, on the application of the decree-holder or any other person interested in the sale, by order set aside the sale, and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the judgment-debtor.

174. (1) Where a tenure or holding is sold for an arrear of rent due thereon, then, at any time within thirty days from the date of sale, the judgment-debtor may apply to have the sale set aside, on his depositing in Court, for payment to the decree-holder, the amount recoverable under the decree with costs, and, for payment to the purchaser, a sum equal to five per centum of the purchase-money.

Application by judgment-debtor to set aside sale.

(2) If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure shall apply in the case of a sale so set aside:

Provided that, if a judgment debtor applies under section 311 of the Code of Civil Procedure to set aside the sale of his tenure or holding, he shall not be entitled to make an application under this section.

(3) Section 313 of the Code of Civil Procedure shall not apply to any sale under this chapter.

175. Notwithstanding anything contained in Part IV. of the Indian Registration Act, 1877, an instrument creating an incumbrance upon any tenure or holding which has been executed before the commencement of this Act, and is not required by section 17 of the said Registration Act to be registered, shall be accepted for registration under that Act if it is presented for that purpose to the proper officer within one year from the commencement of this Act.

Registration of certain instruments creating incumbrances.

176. Every officer who has, whether before or after the passing of this Act, registered an instrument executed by a tenant of a tenure or holding, and creating an incumbrance on the tenure or holding, shall, at the request of the tenant or of the person in whose favour the incumbrance is created, and on payment by him

Notification of incumbrances to landlord.

of such fee as the Local Government may fix in this behalf, notify the incumbrance to the landlord by causing a copy of the instrument to be served on him in the prescribed manner.

Power to create incumbrances not extended.

177. Nothing contained in this chapter shall be deemed to enable a person to create an incumbrance which he could not otherwise lawfully create.

CHAPTER XV.

CONTRACT AND CUSTOM.

Restrictions on exclusion of Act by agreement.

178. (1) Nothing in any contract between a landlord and a tenant made before or after the passing of this Act—

(*a*) shall bar in perpetuity the acquisition of an occupancy-right in land, or

(*b*) shall take away an occupancy-right in existence at the date of the contract, or

(*c*) shall entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act, or

(*d*) shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(2) Nothing in any contract made between a landlord and a tenant since the 15th day of July, 1880, and before the passing of this Act, shall prevent a raiyat from acquiring, in accordance with this Act, an occupancy-right in land.

(3) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

(*a*) prevent a raiyat from acquiring, in accordance with this Act, an occupancy-right in land;

(*b*) take away or limit the right of an occupancy-raiyat to use land as provided by section 23;

(*c*) take away the right of a raiyat to surrender his holding in accordance with section 86;

(*d*) take away the right of a raiyat to transfer or bequeath his holding in accordance with local usage;

(*e*) take away the right of an occupancy-raiyat to sub-let subject to, and in accordance with, the provisions of this Act;

(*f*) take away the right of a raiyat to apply for a reduction of rent under section 38 or section 52;

(*g*) take away the right of a landlord or a tenant to apply for a commutation of rent under section 40; or

(*h*) affect the provisions of section 67 relating to interest payable on arrears of rent:

Provided as follows:—

(i.) nothing in this section shall affect the terms or conditions of a lease granted *bonâ fide* for the reclamation of waste land, except that, where on or after the expiration of the term created by the lease, the lessee would, under Chapter V., be entitled to an occupancy-right in the land comprised in the lease, nothing in the lease shall prevent him from acquiring that right;

(ii.) when a landlord has reclaimed waste land by his own servants or hired labourers, and subsequently lets the same or a part thereof to a raiyat, nothing in this Act shall affect the terms of any contract whereby a raiyat is

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prevented from acquiring an occupancy-right in the land or part during a period of thirty years from the date on which the land or part is first let to a raiyat;

(iii.) nothing in this section shall affect the terms or conditions of any contract for the temporary cultivation of orchard land with agricultural crops.

Permanent mukarrarí leases

179. Nothing in this Act shall be deemed to prevent a proprietor or a holder of a permanent tenure in a permanently-settled area from granting a permanent mukarrarí lease on any terms agreed on between him and his tenant.

Utbandi, chur, and dearah lands.

180. (1) Notwithstanding anything in this Act, a raiyat—

(*a*) who, in any part of the country where the custom of útbandi prevails, holds land ordinarily let under that custom, and for the time being let under that custom, or

(*b*) who holds land of the kind known as chur or dearah,

shall not acquire a right of occupancy—

in case *a*, in land ordinarily held under the custom of útbandi and for the time being held under that custom, or

in case *b*, in the chur or dearah land,

until he has held the land in question for twelve continuous years; and, until he acquires a right of occupancy in the land, he shall be liable to pay such rent for his holding as may be agreed on between him and his landlord.

(2) Chapter VI. shall not apply to raiyats holding land under the custom of útbandi in respect of land held by them under that custom.

(3) The Collector may, on the application of either the landlord or the tenant, or on a reference from the Civil Court, declare that any land has ceased to be chur or dearah land within the meaning of this section, and thereupon all the provisions of this Act shall apply to the land.

Saving as to service-tenures

181. Nothing in this Act shall affect any incident of a ghátwálí or other service-tenure, or, in particular, shall confer a right to transfer or bequeath a service-tenure, which, before the passing of this Act, was not capable of being transferred or bequeathed.

Homestead.

182. When a raiyat holds his homestead otherwise than as part of his holding as a raiyat, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a raiyat.

Saving of custom.

183. Nothing in this Act shall affect any custom, usage, or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

Illustrations.

(1) A usage under which a raiyat is entitled to sell his holding without the consent of his landlord is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That usage, accordingly, wherever it may exist, will not be affected by this Act.

(2) The custom or usage that an under-raiyat should, under certain circumstances, acquire a right of occupancy, is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

CHAPTER XVI.

LIMITATION.

184. (1) The suits, appeals, and applications specified in Schedule III. annexed to this Act, shall be instituted and made within the time prescribed in that schedule for them respectively; and every such suit or appeal instituted, and application made, after the period of limitation so prescribed, shall be dismissed, although limitation has not been pleaded.

Limitation in suits, appeals, and applications in Schedule III.

(2) Nothing in this section shall revive the right to institute any suit or appeal, or make any application, which would have been barred by limitation if it had been instituted or made immediately before the commencement of this Act.

Portions of the Indian Limitation Act not applicable to such suits, &c.

185. (1) Sections 7, 8, and 9 of the Indian Limitation Act, 1877, shall not apply to the suits and applications mentioned in the last foregoing section.

(2) Subject to the provisions of this chapter, the provisions of the Indian Limitation Act, 1877, shall apply to all suits, appeals, and applications mentioned in the last foregoing section.

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

186. (1) If any person, otherwise than in accordance with this Act or some other enactment for the time being in force,—

Penalties for illegal interference with produce.

(*a*) distrains or attempts to distrain the produce of a tenant's holding, or

(*b*) resists a distraint duly made under this Act,

or forcibly or clandestinely removes any property duly distrained under this Act, or

(*c*) except with the authority or consent of the tenant, prevents or attempts to prevent the reaping, gathering, storing, removing, or otherwise dealing with any produce of a holding,

he shall be deemed to have committed criminal trespass within the meaning of the Indian Penal Code.

(2) Any person who abets, within the meaning of the Indian Penal Code, the doing of any act mentioned in sub-section 1, shall be deemed to have abetted the commission of criminal trespass within the meaning of that Code.

Agents and Representatives of Landlords.

187. (1) Any appearance, application, or act, in, before, or to any Court or authority, required or authorized by this Act to be made or done by a landlord, may, unless the Court or authority otherwise directs, be made or done also by an agent empowered in this behalf by a written authority under the hand of the landlord.

Power for landlord to act through agent.

(2) Every notice required by this Act to be served on, or given to, a landlord, shall, if served on, or given to, an agent empowered as aforesaid to accept service of or receive the same on behalf of the landlord, be as effectual for the purposes of this Act as if it had been served on, or given to, the landlord in person.

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(3) Every document required by this Act to be signed or certified by a landlord, except an instrument appointing or authorizing an agent, may be signed or certified by an agent of the landlord authorized in writing in that behalf.

Joint-landlords to act collectively or by common agent.

188. Where two or more persons are joint-landlords, anything which the landlord is under this Act required or authorized to do must be done either by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

Rules under Act.

Power to make rules regarding procedure, powers of officers, and service of notices.

189. The Local Government may, from time to time, by notification in the official Gazette, make rules consistent with this Act—

(1) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may, by such rules, confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits;

(*b*) power to enter upon any land, and to survey, demarcate, and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875; and

(*c*) power to cut and thresh the crops on any land, and weigh the produce, with a view to estimating the capabilities of the soil; and

(2) to prescribe the mode of service of notices under this Act where no mode is prescribed by this or any other Act.

Procedure for making, publication, and confirmation of rules.

190. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government or High Court, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by any other authority, in the prescribed manner:

Provided that every such draft shall be published in the official Gazette.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

(6) All rules made under this Act may, from time to time, subject to the sanction (if any) required for making them, be amended, added to, or cancelled by the authority having power to make the same.

Provisions as to Temporarily-settled Districts.

Saving as to land held in a district not permanently settled.

191. Where the area comprised in a tenure is situate in an estate which has never been permanently settled, nothing in this Act shall prevent the enhancement of the rent upon the expiration of a temporary settlement of the revenue, unless the right to hold beyond the term of the settlement at

a particular rate of rent has been expressly recognized in settlement-proceedings by a Revenue-authority empowered by the Government to make definitively or confirm settlements.

Power to alter rent in case of new assessment of revenue.

192. When a landlord grants a lease, or makes any other contract, purporting to entitle the tenant of land not included in an area permanently settled to hold that land free of rent or at a particular rent, and while the lease or contract is in force—

(*a*) land-revenue is for the first time made payable in respect of the land, or

(*b*) land-revenue having been previously payable in respect of it, a fresh settlement of land-revenue is made,

a Revenue-officer may, notwithstanding anything in the contract between the parties, by order, on the application of the landlord or of the tenant, fix a fair and equitable rent for the land in accordance with the provisions of this Act.

Rights of Pasturage, &c.

Rights of pasturage, forest-rights, &c.

193. The provisions of this Act applicable to suits for the recovery of arrears of rent shall, as far as may be, apply to suits for the recovery of anything payable or deliverable in respect of any rights of pasturage, forest-rights, rights over fisheries, and the like.

Saving for Conditions binding on landlords.

Tenant not enabled by Act to violate conditions binding on landlord.

194. Where a proprietor or permanent tenure-holder holds his estate or tenure subject to the observance of any specified rule or condition, nothing in this Act shall entitle any person occupying land within the estate or tenure to do any act which involves a violation of that rule or condition.

Savings for Special Enactments.

Saving for special enactments.

195. Nothing in this Act shall affect—

(*a*) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act;

(*b*) any enactment regulating the procedure for the realization of rents in estates belonging to the Government, or under the management of the Court of Wards or of the Revenue-authorities;

(*c*) any enactment relating to the avoidance of tenancies and incumbrances by a sale for arrears of the Government revenue;

(*d*) any enactment relating to the partition of revenue-paying estates;

(*e*) any enactment relating to *patni* tenures, in so far as it relates to those tenures; or

(*f*) any other special or local law not repealed either expressly or by necessary implication by this Act.

Construction of Act.

Act to be read subject to Act hereafter passed by Lieutenant-Governor of Bengal in Council.

196. This Act shall be read subject to every Act passed after its commencement by the Lieutenant-Governor of Bengal in Council.

SCHEDULE I.

(*See section 2.*)

REPEAL OF ENACTMENTS.

Regulations of the Bengal Code.

Number and year.	Subject of Regulation.	Extent of repeal.
VIII. of 1793 ...	A Regulation for re-enacting with modifications and amendments the rules for the Decennial Settlement of the Public Revenue payable from the lands of the zamindárs, independent taluqdárs, and other actual proprietors of land in Bengal, Behar, and Orissa, passed for those Provinces respectively on the 18th September 1789, the 25th November 1789, and the 10th February 1790, and subsequent dates.	Sections 51, 52, 53, 54, 55, 64, and 65.
XII. of 1805 ...	A Regulation for the settlement and collection of the Public Revenue in the zila of Cuttack, including the parganas of Pattáspur, Kummadichour, and Bagrac, at present included in the zila of Midnapur.	Section 7.
V. of 1812 ...	A Regulation for amending some of the rules at present in force for the collection of the Land-revenue.	Sections 2, 3, 4, 26, and 27.
XVIII. of 1812 ...	A Regulation for explaining section 2, Regulation V., 1812, and rescinding sections 3 and 4, Regulation XLIV., 1793, and sections 3 and 4, Regulation L., 1795, and enacting other rules in lieu thereof.	The preamble and sections 2 and 3.
XI. of 1825 ...	A Regulation for declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea.	In clause 1 of section 4, from and including the words " nor if annexed to a subordinate tenure" to the end of the clause.

SCHEDULE I.

(*See section 2.*)

REPEAL OF ENACTMENTS.

Acts of the Bengal Council.

Number and year.	Subject of Act.	Extent of repeal.
VI. of 1862 ...	An Act to amend Act X. of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).	The whole Act.
IV. of 1867 ...	An Act to explain and amend Act VI. of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.
VIII. of 1869 ...	An Act to amend the Procedure in suits between Landlords and Tenants	The whole Act.
VIII. of 1879 ...	An Act to define and limit the powers of Settlement-officers.	The whole Act.

Acts of the Governor-General in Council.

Number and year.	Subject of Act.	Extent of repeal.
X. of 1859 ...	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.

SCHEDULE II.

FORMS OF RECEIPT AND ACCOUNT.

(See sections 56 and 57.)

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING
(LANDLORD'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Thánâ
3. Tenant's name , Son of
4. Particulars of the holding—

   Nukdi, Bighás ; rent Rs.

   Baouli, Bíghás ; Maunds ; or Rs.

   Julkur, Rs.
   Bunkur, Rs.
   Phulkur, Rs.

   Government Cesses { Road Cess, Rs. / Public Works Cess, Rs.

5. Signature of the Landlord or his authorized Agent

FORM OF RECEIPT.

PARTICULARS OF THE HOLDING
(TENANT'S PORTION).

1. Serial number of Receipt
2. Estate ; Village ; Thánâ
3. Tenant's name , Son of
4. Particulars of the holding—

   Nukdi, Bighás ; rent Rs.

   Baouli, Bighás ; Maunds ; or Rs.

   Julkur, Rs.
   Bunkar, Rs.
   Phulkur, Rs.

   Government Cesses { Road Cess, Rs. / Public Works Cess, Rs.

5. Signature of the Landlord or his authorized Agent

Section 55 of the Bengal Tenancy Act, 1885, provides as follows:—

(1) When a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may be credited to the account of such year and instalment as the landlord thinks fit.

DETAILS OF PAYMENTS
(TENANT'S PORTION).

Date of payment, and name of person through whom paid.	Nukdi.		Baouli.		Julkur, &c.		Cesses.		Signature of the landlord or his authorized agent.
	Current on account of kist .	Arrear on account of year , kist .	Current on account of crop .	Arrear on account of year , crop .	Current on account kist .	Arrear on account of year , kist .	Current on account of kist .	Arrear on account of year , kist .	

DETAILS OF PAYMENTS
(LANDLORD'S PORTION).

Date of payment, and name of person through whom paid.	Nukdi.		Baouli.		Julkur, &c.		Cesses.	
	Current on account of kist .	Arrear on account of year , kist .	Current on account of crop .	Arrear on account of year , crop .	Current on account of kist .	Arrear on account of year , kist .	Current on account of kist .	Arrear on account of year , kist .

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bíghás	Rate	Rs. A. P.
Nukdi			

Government Cesses

	Bíghás	Maunds	Rs. A. P.
Baouli			
Julkur	...	...	
Bunkur	...	...	
Phulkur	...	...	

	Maunds	Rs. A. P.
4. Demand of the year	...	
5 Balance of former years (Bakaya)		
		Rs. A. P.
6. Total demand (current and arrear)	...	
7. Paid each on account of { Current demand ...	...	
{ Arrear demand ...	...	
	Maunds	
8. Paid in kind	...	
		Rs. A. P.
9. Balance outstanding at end of year		
10. Signature of the Landlord or his authorized Agent		

FORM OF ACCOUNT.

1. Year
2. Tenant's name
3. Particulars of holding—(area, rent, &c.)

	Bíghás	Rate	Rs. A. P.
Nukdi			

Government Cesses

	Bíghás	Maunds	Rs. A. P.
Baouli			
Julkur	...	...	
Bunkur	...	...	
Phulkur	...	...	

		Maunds	Rs. A. P.
4. Demand of the year			
5. Balance of former years (Bakaya)	...	...	
			Rs. A. P.
6. Total demand (current and arrear)	...	...	
7. Paid each on account of { Current demand ...	...	...	
{ Arrear demand ...	...	...	
		Maunds	
8. Paid in kind	...	...	
			Rs. A. P.
9. Balance outstanding at end of year			
10. Signature of the Landlord or his authorized Agent			

SCHEDULE III.

LIMITATION.

(*See section 184.*)

PART I.—*Suits.*

Description of Suit.	Period of Limitation.	Time from which period begins to run.
1. To eject any tenure-holder or raiyat on account of any breach of a condition in respect of which there is a contract expressly providing that ejectment shall be the penalty of such breach.	One year ...	The date of the breach.
2. For the recovery of an arrear of rent—		
(*a*) when the arrear fell due before a deposit was made under section 61 on account of the rent of the same holding.	Six months ...	The date of the service of notice of the deposit.
(*b*) in other cases	Three years ...	The last day of the Bengalí year in which the arrear fell due, where that year prevails, and the last day of the month of Jeyt of the Amli or Fasli year in which the arrear fell due, where either of those years prevails.
3. To recover possession of land claimed by the plaintiff as an occupancy-raiyat.	Two years ...	The date of dispossession.

PART II.—*Appeals.*

Description of Appeal.	Period of Limitation.	Time from which period begins to run.
4. From any decree or order under this Act, to the Court of a District Judge or Special Judge.	Thirty days ...	The date of the decree or order appealed against.
5. From any order of a Collector under this Act, to the Commissioner.	Thirty days ...	The date of the order appealed against.

PART III.—*Applications.*

Description of Application.	Period of Limitation.	Time from which period begins to run.
6. For the execution of a decree or order made under this Act, or any Act, repealed by this Act, and not being a decree for a sum of money exceeding Rs. 500, exclusive of any interest which may have accrued after decree upon the sum decreed, but inclusive of the costs of executing such decree ; except where the judgment-debtor has by fraud or force prevented the execution of the decree, in which case the period of limitation shall be governed by the provisions of the Indian Limitation Act, 1877.	Three years ...	(1) The date of the decree or order ; or (2) where there has been an appeal, the date of the final decree or order of the Appellate Court ; or (3) where there has been a review of judgment, the date of the decision passed on the review.

ACT NO. IX. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH MAY 1885.

An Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149, and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows :—

Repeal of part of section 6 of Act XI. of 1882.

1. The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas," down to and including the words "been paid," is repealed.

Amendment of section 7 of Act XXII. of 1881.

2. For clause (*a*) of section 7 of the Excise Act, 1881, the following clause shall be substituted :—

"(*a*) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or."

Amendment of section 18 of Bengal Act VII. of 1878.

3. In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted ; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

Saving of duties already fixed under section 6 of Act XI. of 1882.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.

Amendment of sections 145 and 149 of Act VIII. of 1878.

5. (1) In section 145 of the Sea Customs Act, 1878, after the word "shall" the words "except when provision is made by any enactment for the time being in force for its being intermediately deposited in a licensed warehouse" shall be inserted.

(2) In section 149 of the same Act, after the words "custom-house" the words "or to a warehouse licensed under any enactment for the time being in force" shall be inserted.

Amendment of section 207 of the same Act.

6. In section 207 of the same Act, for the word "respectively" the words "or any like body hereafter created for any other port" shall be substituted.

ACT NO. X. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH JUNE 1885.

An Act to amend the Oudh Estates Act, 1869.

WHEREAS it is expedient to amend the Oudh Estates Act, 1869; It is hereby enacted as follows:—

Amendment of definition of "registered" in section 2 of Act I. of 1869.

1. Subject to the saving in section 2 of this Act, for the definition of "registered" in section 2 of the said Act there shall be deemed to have been substituted from the date of the passing of the said Act the following definition, namely:—

"Registered."

"'Registered' means—

"(*a*) in the case of a will, registered according to the law for the time being in force relating to the registration of assurances, or deposited with a Registrar according to the law for the time being in force relating to the deposit of wills; and

"(*b*) in the case of any other instrument, registered according to the law for the time being in force relating to the registration of assurances."

Saving of certain wills.

2. Nothing in section 1 shall affect any will—

(*a*) declared by a judicial decision pronounced before the passing of this Act to be invalid on the ground that it was not registered in accordance with the provisions of the said Act; or

(*b*) of which the validity is at the time of the passing of this Act being questioned on that ground in a suit commenced before the twenty-third day of October 1884.

1885.

Act 11, & Act 12.

ACT NO. XI. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 10TH JULY 1885.

An Act to correct an error in the Burma Municipal Act, 1884.

WHEREAS it is expedient to correct an error in the Burma Municipal Act, 1884; It is hereby enacted as follows:—

(1) In section 58 of the said Act, for the word "occupation" the word "possession" shall be substituted.

(2) The substitution made by sub-section (1) shall be deemed to have been made from the date on which the said Act came into force.

ACT NO. XII. OF 1885.

CARRIAGE OF PASSENGERS BY SEA.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND JULY 1885.

An Act to amend the law relating to the carriage of passengers by sea.

WHEREAS by section 99 of an Act of the Imperial Parliament, called "The Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced;"

And whereas certain parts of the said Act of Parliament were, by Act II. of 1860 (*to amend the law relating to the carriage of passengers by sea*), made applicable to the carriage of passengers upon certain specified voyages;

And whereas by an Act of the Imperial Parliament, called "The Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable, have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II. of 1860;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Sea Passengers Act, 1885; and

(2) It shall come into force on the first day of October 1885.

Repeal of Act II. of 1860.

2. On and from the day on which this Act comes into force, Act II. of 1860 (*to amend the law relating to the carriage of passengers by sea*) shall be repealed.

Certain provisions of the Statutes made applicable to specified voyages from India.

3. The provisions contained in sections 4, 5, and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely :—

(*a*) voyages from the ports of Calcutta, Madras, and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis, and Fiji ;

(*b*) voyages from the ports of Calcutta, Madras, and Bombay to the French Colonies of Ré-union, Martinique, Guadeloupe and its dependencies, and Guiana ;

(*c*) voyages from the ports of Calcutta, Madras, and Bombay to the Netherlands colony of Dutch Guiana ;

(*d*) voyages from the ports of Calcutta, Madras, and Bombay to the Danish colony of St. Croix ;

(*e*) voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karáchí, Rangoon, and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden, or Persian Gulf, and on the East Coast of Africa.

Governors or Consuls may pay expenses of passengers taken off passenger-ship.

4. If the passengers or cabin-passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying them, or are picked up at sea from any boat, raft, or otherwise, it shall be lawful, if the port or place to which they are conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or, if in any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred.

Governors or Consuls may send on passengers, if the master of the ship fail to do so.

5. If any passenger or cabin-passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

Expenses incurred under sections 4 and 5 to be a Crown debt.

6. (1) All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination, and of all necessary bedding, provisions, and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer, and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

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(2) A certificate in the form given in the schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred ;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred :

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer, or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship ; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt ; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

Insurance.

7. No policy of assurance effected in respect of any passages or of any passage or compensation money by any person by this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

THE SCHEDULE.

Form of Governor's or Consul's Certificate of Expenditure in the case of Passengers shipwrecked, &c.

(*See section 6.*)

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions, and stores (a), and in forwarding to their destination passengers [including cabin-passengers (b),] who were proceeding from to

(a) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b) *N.B.*—2. Omit words in brackets when necessary.

in the passenger-ship which was wrecked at sea, &c. (*c*).

(*c*) *N.B.*—3 State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

Given under my hand this day of , 18 .

{ *Governor of, &c.* (or, as the case may be)
{ *Her Britannic Majesty's Consul at* .

ACT NO. XIII. OF 1885.

TELEGRAPHS.

Received the G.-G.'s Assent on the 22nd July 1885.

An Act to amend the law relating to Telegraphs in India.

Whereas it is expedient to amend the law relating to telegraphs in India; It is hereby enacted as follows:—

PART I.

Preliminary.

Short title, local extent, and commencement.

1. (1) This Act may be called the Indian Telegraph Act, 1885.

(2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; and

(3) It shall come into force on the first day of October, 1885.

Repeal and savings.

2. The Indian Telegraph Act, 1876, is hereby repealed.

But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Telegraph" means an electric, galvanic, or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic, or other communications by means of electricity, galvanism, or magnetism:

(2) "Telegraph officer" means any person employed either permanently or temporarily in connection with a telegraph established, maintained, or worked by the Government or by a person licensed under this Act:

(3) "Message" means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered:

(4) "Telegraph line" means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube, or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same:

(5) "Post" means a post, pole, standard, stay, strut, or other above-ground contrivance for carrying, suspending, or supporting a telegraph line:

(6) "Telegraph authority" means the Director-General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act:

(7) "Local authority" means any municipal committee, district board, body of port commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

Privileges and Powers of the Government.

Exclusive privilege in respect of telegraphs, and power to grant licenses.

4. Within British India, the Governor-General in Council shall have the exclusive privilege of establishing, maintaining, and working telegraphs:

Provided that the Governor-General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain, or work a telegraph within any part of British India.

Power for Government to take possession of licensed telegraphs and to order interception of messages.

5. (1) On the occurrence of any public emergency, or in the interest of the public safety, the Governor-General in Council or a Local Government, or any officer specially authorised in this behalf by the Governor-General in Council, may—

(*a*) take temporary possession of any telegraph established, maintained, or worked by any person licensed under this Act; or

(*b*) order that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

Power to establish telegraph on land of Railway Company.

6. Any Railway Company, on being required so to do by the Governor-General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

Power to make rules for the conduct of telegraphs.

7. (1) The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules consistent with this Act for the conduct of all or any telegraphs established, maintained, or worked by the Government or by persons licensed under this Act.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say :—

(a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted ;

(b) the precautions to be taken for preventing the improper interception or disclosure of messages ;

(c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved ; and

(d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(3) When making rules for the conduct of any telegraph established, maintained, or worked by any person licensed under this Act, the Governor-General in Council may by the rules prescribe fines for any breach of the same :

Provided that the fines so prescribed shall not exceed the following limits, namely :—

(i.) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues ;

(ii.) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i.).

Revocation of licenses.

8. The Governor-General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

Government not responsible for loss or damage.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission, or delivery of any message ; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously, or fraudulently.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

Power for telegraph authority to place and maintain telegraph lines and posts.

10. The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon, any immoveable property :

Provided that—

(a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained ;

(b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in, or upon which the telegraph authority places any telegraph line or post ; and

(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority without the permission of that authority ; and

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(*d*) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (*c*), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

Power to enter on property in order to repair or remove telegraph lines or posts.

11. The telegraph authority may, at any time, for the purpose of examining, repairing, altering, or removing any telegraph line or post, enter on the property under, over, along, across, in, or upon which the line or post has been placed.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

Power for local authority to give permission under section 10, clause (*c*), subject to conditions.

12. Any permission given by a local authority under section 10, clause (*c*), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

Power for local authority to require removal or alteration of telegraph line or post.

13. When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in, or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed, or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

Power to alter position of gas or water pipes or drains.

14. The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain):

Provided that—

(*a*) when the telegraph authority desires to alter the position of any such pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;

(*b*) a local authority or person receiving notice under clause (*a*) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

Disputes between telegraph authority and local authority.

15. (1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (*c*), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under

section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Local Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government; and the order of the Local Government shall final.

Provisions applicable to other Property.

Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.

16. (1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (*d*) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (*d*), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient, or, where all the disputing parties have in writing admitted the amount tendered to be sufficient, or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties, and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation, or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

Removal or alteration of telegraph line or post on property other than that of a local authority.

17. (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in, or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof, or to a higher or lower level, or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly:

Provided that, if compensation has been paid under section 10, clause (*d*), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same, or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property, or to a higher or lower level, or for the alteration of its form; and the order so made shall be final.

Provisions applicable to all Property.

Removal of trees interrupting telegraphic communication.

18. (1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

Telegraph lines and posts placed before the passing of this Act.

19. Every telegraph line or post placed before the passing of this Act under, over, along, across, in, or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

PART IV.

PENALTIES.

Establishing, maintaining, or working unlicensed telegraph, or breaking condition of license.

20. If any person establishes, maintains, or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked, or the breach of the condition continues.

Using such telegraphs.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph, or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

Opposing establishment of telegraphs on railway land.

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

Intrusion into signal-room, trespass in telegraph office, or obstruction.

23. If any person—

(*a*) without permission of competent authority enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or

(*b*) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or

(*c*) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or

(*d*) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

Unlawfully attempting to learn contents of messages.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which he is punishable under section 23) be punished with imprisonment for a term which may extend to one year.

Intentionally damaging or tampering with telegraphs.

25. If any person, intending—

(*a*) to prevent or obstruct the transmission or delivery of any message, or

(*b*) to intercept or to acquaint himself with the contents of any message, or

(*c*) to commit mischief,

damages, removes, tampers with, or touches any battery, machinery, telegraph line, post, or other thing whatever, being part of, or used in or about, any telegraph, or in the working thereof,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.

26. If any telegraph officer, or any person, not being a telegraph officer, but having official duties connected with any office which is used as a telegraph office,—

(*a*) wilfully secretes, makes away with, or alters any message which he has received for transmission or delivery, or

(*b*) wilfully, and otherwise than in obedience to an order of the Governor-General in Council or of a Local Government, or of an officer specially authorised by the Governor-General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty, or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or

(*c*) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph officer fraudulently sending messages without payment.

27. If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Misconduct.

28. If any telegraph officer, or any person not being a telegraph officer, but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness, or other misconduct whereby the correct

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transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the transmission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Sending fabricated message.

29. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Retaining a message delivered by mistake.

30. If any person fraudulently retains, or wilfully secretes, makes away with, or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Bribery.

31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164, and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act.

Attempts to commit offences.

32. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

PART V.

Supplemental Provision.

Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

33. (1) Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

ACT NO. XIV. OF 1885.

RECEIVED THE G.-G.'s ASSENT ON THE 31ST JULY, 1885.

An Act to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure.

WHEREAS it is expedient to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Burma Courts Act, 1885 : and

(2) It shall come into force at once.

Power to vest in local officers insolvency jurisdiction vested in Recorder in Moulmein, Akyab, and Bassein.

2. (1) The Chief Commissioner of British Burma may, from time to time, by order notified in the official Gazette, direct that, from a date to be therein specified, the jurisdiction vested in the Recorder within the towns of Moulmein, Akyab, and Bassein by section 66 of the Burma Courts Act, 1875, shall be vested, as regards each or any of those towns, as follows :—

(*a*) in the Civil Judge of Moulmein within the town of Moulmein ;

(*b*) in the Deputy Commissioner of Akyab within the town of Akyab ;

(*c*) in the Deputy Commissioner of Bassein within the town of Bassein.

(2) While any such order is in force, the said section 66 shall, with respect to any town to which the order applies, have effect as if it referred to the officer in whom the jurisdiction is so vested instead of to the Recorder, and all cases pending at the date of the order shall be disposed of accordingly.

(3) Provided that nothing in this section shall prevent the Recorder from entertaining and disposing of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(4) The Chief Commissioner may, by order notified as aforesaid, cancel any order made under sub-section (1) as to all or any of the towns to which the order applies, but not so as to affect any proceedings pending at the date of the cancelling order.

Partial repeal of section 360 of Code of Civil Procedure.

3. The last paragraph of section 360 of the Code of Civil Procedure is hereby repealed.

Power to transfer cases from Court of Recorder to Court of Judicial Commissioner.

4. (1) The Chief Commissioner may, from time to time, transfer to the Court of the Judicial Commissioner any particular cases or particular classes of cases that may be pending in the Court of the Recorder.

(2) In the disposal of such cases the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers, and use the same seal as would be administered, followed, exercised, and used by the Recorder in like cases.

(3) Section 84 of the Burma Courts Act, 1875, shall apply to the Court of the Judicial Commissioner when disposing of such cases.

(4) All decrees, orders, and sentences made or passed in such cases by the Judicial Commissioner, shall, for the purposes of the law relating to appeals, references, and revision, be deemed to be made or passed by the Recorder.

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ACT NO. XV. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 2ND OCTOBER 1885.

An Act to amend the Local Authorities Loan Act, 1879.

WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879; It is hereby enacted as follows:—

Addition to section 8, Act XI. of 1879.

1. After clause (*b*) of the proviso to section 8 of the said Act the following shall be added :—

"or

"(*c*) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied."

ACT NO. XVI. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 2ND OCTOBER 1885.

An Act to amend the law relating to Civil Courts in the Central Provinces.

WHEREAS it is expedient to amend the Law relating to Civil Courts in the Central Provinces; It is hereby enacted as follows:—

Preliminary.

Short title, local extent, and commencement.

1. (1) This Act may be called the Central Provinces Civil Courts Act, 1885.

(2) It extends to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces; and

(3) It shall come into force on the first day of January, 1886.

(4) Any authority conferred on the Chief Commissioner or on the Judicial Commissioner by this Act to issue orders or make rules may be exercised at any time after the passing of this Act; but an order or rule so issued or made shall not take effect until the Act comes into force.

Repeal.

2. (1) On and from the day on which this Act comes into force the Central Provinces Courts Act, 1865, and Act XXVII. of 1867, so far as it relates to the Central Provinces, shall be repealed.

(2) Any enactment or document referring to either of the enactments hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof; and all declarations made, powers conferred, limits prescribed, directions given, and orders issued under either of those enactments, shall, so far as may be, be deemed to have been respectively made, conferred, prescribed, given, and issued under this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

"Assistant Commissioner" includes Extra Assistant Commissioner; and

"value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

Classes of Courts.

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Classes of Courts.

4. Besides the Courts of Small Causes established under Act XI. of 1865, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely :—

(a) the Court of the Judicial Commissioner ;
(b) the Court of the Commissioner ;
(c) the Court of the Deputy Commissioner ;
(d) the Court of the Assistant Commissioner of the first class ;
(e) the Court of the Assistant Commissioner of the second class ;
(f) the Court of the Assistant Commissioner of the third class ;
(g) the Court of the Tahsíldár of the first class ;
(h) the Court of the Tahsíldár of the second class ;

Court of the Judicial Commissioner.

Court of the Judicial Commissioner.

5. The Judicial Commissioner shall be appointed by the Governor-General in Council ; and his Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Courts of Commissioners and Deputy Commissioners.

Courts of Commissioners and Deputy Commissioners.

6. (1) The local limits of the jurisdiction of the Court of the Commissioner shall be those of the division of the revenue-administration of which he is in charge.

(2) The local limits of the jurisdiction of the Court of the Deputy Commissioner shall be those of the district of the revenue-administration of which he is in charge.

Original jurisdiction of Courts of Commissioners and Deputy Commissioners in suits.

7. Except as otherwise provided by any enactment for the time being in force, the Court of the Commissioner and the Court of the Deputy Commissioner shall be competent to try original civil suits without limit as regards the value.

Court of Deputy Commissioner to be principal Civil Court of original jurisdiction.

8. Except as otherwise provided by any enactment for the time being in force, the Deputy Commissioner shall be deemed to be the District Judge of the district, and his Court to be the District Court or principal Civil Court of original jurisdiction in the district.

Other Courts.

Chief Commissioner may declare class to which the Court of an Assistant Commissioner or Tahsíldár shall belong.

9. The Chief Commissioner may, by order in writing, declare, as regards any Assistant Commissioner, that his Court shall be that of an Assistant Commissioner of the first or of the second or of the third class, and, as regards any Tahsíldár, that his Court shall be that of a Tahsíldár of the first or of the second class.

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Pecuniary and local limits of the jurisdiction of Courts of Assistant Commissioners and Tahsíldárs.

10. (1) Courts of Assistant Commissioners and Tahsíldárs shall be competent to try original civil suits of which the value does not exceed that specified against each Court in the following table:—

Courts.	Value.
Court of the Assistant Commissioner of the first class	Five thousand rupees.
Court of the Assistant Commissioner of the second class	One thousand rupees.
Court of the Assistant Commissioner of the third class	Five hundred rupees.
Court of the Tahsíldár of the first class ...	Three hundred rupees.
Court of the Tahsíldár of the second class ...	One hundred rupees.

Provided that the Chief Commissioner may, by order in writing, limit the classes of original civil suits which the Courts of Tahsíldárs of the first or of the second class shall be competent to try.

(2) The local limits of the jurisdiction of the Courts mentioned in this section shall be such as the Chief Commissioner may, by order in writing, define.

Náib-tahsíldárs.

Conferment of jurisdiction in certain suits on Náib-tahsíldárs.

11. The Chief Commissioner may, by order in writing, invest, within such local limits as he thinks fit, any Náib-tahsíldár with jurisdiction to try suits of the nature cognizable in a Court of Small Causes established under Act XI. of 1865, up to such value, not exceeding fifty rupees, as he thinks fit.

Judicial Assistants to Commissioners, Civil Judges, and Munsifs.

Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge, and Munsif, with certain powers.

12. (1) The Chief Commissioner may, by order in writing, invest any person—

(*a*) with all or any of the powers of the Court of the Commissioner under this Act;

(*b*) with all or any of the powers of the Court of the Deputy Commissioner under this Act; or

(*c*) with all or any of the powers of the Court of a Tahsíldár of the first or of the second class under this Act;

and declare that the powers with which any person is so invested shall be exercised within any specified local area, and with respect to any particular class, or particular classes, of cases, or with respect to cases generally.

(2) Persons invested with powers under sub-section (1) shall be designated as follows:—

if invested under clause (*a*)—Judicial Assistant to the Commissioner;
if invested under clause (*b*)—Civil Judge;
if invested under clause (*c*)—Munsif.

(3) The Courts of such persons shall, for all purposes connected with the exercise of the said powers, be deemed to be, respectively, Courts of Commissioners, Courts of Deputy Commissioners, and Courts of Tahsíldárs.

(4) The Chief Commissioner may, by order in writing, direct how business shall be distributed between the Commissioner and the Judicial Assistant to the Commissioner, and between the Deputy Commissioner and the Civil Judge.

Small Cause Court Jurisdiction.

Power to confer Small Cause Court jurisdiction.

13. The Chief Commissioner may, by order in writing, confer, within such local limits as he thinks fit, upon any Court of an Assistant Commissioner of the first or of the second class the jurisdiction of a Judge of a Court of Small Causes under Act XI. of 1865 for the trial of suits cognizable by such Courts up to such value as he thinks fit, not exceeding, if the Court is that of an Assistant Commissioner of the first class, five hundred rupees, or, if the Court is that of an Assistant Commissioner of the second class, one hundred rupees.

Administrative Control.

Superintendence and control of subordinate Courts by Courts of Judicial Commissioner, Commissioner, and Deputy Commissioner.

14. (1) The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the control of all other Civil Courts in a division shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of the Court of the Commissioner, the control of all other Civil Courts in a district shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner:

Provided that the Chief Commissioner, by order in writing, may direct that any Judicial Assistant to the Commissioner or Civil Judge shall not be subject to the control of, or subordinate to, the Court of the Commissioner or the Court of the Deputy Commissioner, as the case may be, and may further direct that such officer shall be subject to the control of, and subordinate to, such other Court as the Chief Commissioner thinks fit.

Power of Court of Commissioner to transfer business.

15. (1) The Court of the Commissioner may exercise, as regards the Courts under its control, the same powers of withdrawal, trial, and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court.

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

Power to distribute business.

16. Notwithstanding anything contained in the Code of Civil Procedure, the Court of the Commissioner and the Court of the Deputy Commissioner may, by order in writing, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit:

Provided that no direction given under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

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Appellate Jurisdiction.

Appeals to whom to lie.

17. (1) Appeals from decrees passed in original civil suits by Courts subordinate to the Court of the Deputy Commissioner shall, when such appeals are allowed by law, and the value of the suit does not exceed one thousand rupees, lie to that Court.

(2) Appeals from decrees passed in original civil suits of value exceeding one thousand rupees by the Court of an Assistant Commissioner of the first class, or by a Civil Judge who is subordinate to the Court of the Deputy Commissioner, and from decrees passed in original civil suits of any value by the Court of a Deputy Commissioner, or by a Civil Judge who is not subordinate to that Court, or by a Judicial Assistant to the Commissioner who is subordinate to the Court of the Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Commissioner

(3) Appeals from decrees passed in original civil suits by the Court of the Commissioner or by a Judicial Assistant to the Commissioner who is not subordinate to the Court of the Commissioner, and from appellate decrees passed by Civil Courts subordinate to the Court of the Judicial Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Judicial Commissioner.

Period of limitation for appeals.

18. (1) The period of limitation for an appeal to the Court of the Commissioner shall be sixty days.

(2) In the computation of that period and in all other respects the limitation of appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

Rules.

Power to make rules.

19. (1) The Judicial Commissioner may make rules consistent with this Act and any other enactment for the time being in force—

(*a*) declaring what persons shall be permitted to practise as petition-writers in Civil Courts, and regulating the conduct of persons so practising;

(*b*) prescribing forms for seals to be used by those Courts;

(*c*) regulating the procedure in cases where any person is entitled to inspect a record of any Civil Court or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;

(*d*) conferring and imposing on the ministerial officers of Civil Courts such powers and duties of a non-judicial or quasi-judicial nature as he thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(*e*) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made, or compiled in those Courts, or submitted to any authority;

(*f*) providing for the inspection of those Courts, and the supervision of the working thereof; and

(*g*) regulating all such matters as he may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of those Courts, and maintaining proper discipline among those officers.

(2) A rule made under this section shall not take effect until it has been sanctioned by the Chief Commissioner and published in the official Gazette.

(3) Whoever breaks any rule made under clause (*a*) shall be punished with fine which may extend to fifty rupees.

(4) Rules made under clause (*g*) may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary that may be or become due to the officers fined.

Supplemental Provisions.

Books and accounts, and statements and returns, to be kept and furnished by Judicial Commissioner.

20. (1) The Judicial Commissioner shall keep such registers, books, and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Chief Commissioner such of those registers, books, and accounts, and such statements of the work done in his Court, as may be required by the Chief Commissioner.

(2) The Judicial Commissioner shall also comply, in such form and manner as the Chief Commissioner may deem proper, with such requisitions as may be made by the Chief Commissioner for records of, or papers belonging to, the Court of the Judicial Commissioner or any Civil Court subordinate thereto, or for certified copies of, or extracts from, such records or papers, or for returns, statements, or reports.

Place of sitting of Courts.

21. (1) The Chief Commissioner may, by order in writing, fix the place or places at which any Civil Court shall be held.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Civil Court may be held at any place within the local limits of its jurisdiction.

Mode of conferring powers.

22. The Chief Commissioner may, when he is empowered by this Act to confer any powers, confer them on any person specially by name or by virtue of his office.

Vacations.

23. (1) Subject to the approval of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as holidays in his Court and the Civil Courts subordinate thereto.

(2) The list shall be published in the official Gazette.

Pending proceedings.

24. (1) All cases or proceedings pending in the Court of the Judicial Commissioner on the day when this Act comes into force shall be disposed of as if this Act had not been passed.

(2) All cases or proceedings pending in any Civil Court subordinate to the Court of the Judicial Commissioner on that day shall be disposed of as if this Act had not been passed:

Provided that the Judicial Commissioner may direct that any such cases or proceedings shall be transferred for disposal to any Court established under this Act which would have had jurisdiction if it had been in existence when the cases or proceedings were instituted.

(3) In the case of an appeal pending on the said day, the following shall, for the purposes of sub-section (2), be deemed to be the Court which would have had jurisdiction as aforesaid, namely:—

(*a*) when the value of the suit does not exceed one thousand rupees, and the decree or order has been passed by a Court of a class lower than that of the Deputy Commissioner—the Court of the Deputy Commissioner;

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(b) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

Appeals after Act comes into force against decrees and orders passed before.

25. Appeals from decrees and orders passed by Civil Courts, and not appealed against before the date on which this Act comes into force, shall lie and be disposed of as if this Act had not been passed, and not otherwise:

Provided that the Courts to which such appeals shall lie shall be as follows:—

(a) when the appeal would, before the said date, have lain to the Court of the Judicial Commissioner—that Court;

(b) when the appeal is from a decree or order passed by a Court of a class lower than that of the Deputy Commissioner in an original civil suit of which the value does not exceed one thousand rupees—the Court of the Deputy Commissioner;

(c) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

Powers exercisable from time to time.

26. All powers conferred by this Act may be exercised from time to time as occasion requires.

Publication of certain orders.

27. All orders required by this Act to be issued by the Chief Commissioner in writing shall be published in the official Gazette.

ACT NO. XVII. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 9TH OCTOBER 1885.

An Act to make better provision for the Superintendence of Government Wards in the Central Provinces.

WHEREAS it is expedient to make better provision for the superintendence of Government wards in the Central Provinces; It is hereby enacted as follows:—

Short title, extent, and commencement.

1. (1) This Act may be called the Central Provinces Government Wards Act, 1885.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

Repeal.

2. Bengal Regulations LII. of 1803 (*for establishing a Court of Wards in the Provinces ceded by the Nawáb Vizier to the Honourable the English East India Company*) and VI. of 1822 (*to establish a Court of Wards for Benares, and to define and explain certain of the rules regarding the powers and jurisdiction of the several Courts of Wards*), and section 14 of Act XL. of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), shall, so far as they are in force in the whole or any part of the territories to which this Act extends, be repealed.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act:

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(2) "Landholder" means a málguzár as defined in the Central Provinces Land-revenue Act, 1881, and the zamíndár of any zamíndári specified in Part VI. of the first schedule of the Scheduled Districts Act, 1874, and includes a muáfidár, jagírdár, ubáridár, or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land, and belongs to a class of which the Chief Commissioner, with the previous sanction of the Governor-General in Council, has declared the members to be landholders for the purposes of this Act: and

(3) "Land" includes the rights of a landholder in respect of the land of which he is the málguzár or zamindár, or the muáfidár, jagírdár, ubáridár, or other assignee of land-revenue, or in which he is interested.

Deputy Commissioner to be Court of Wards.

4. The Deputy Commissioner shall be the Court of Wards for the limits of his district.

Landholders to be under jurisdiction of Court of Wards.

5. Every landholder shall be under the jurisdiction of the Court of Wards.

Superintendence by Court of Wards of property of disqualified landholder.

6. The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder owning land within the local limits of its jurisdiction who is disqualified to manage his own property.

Cases in which landholders to be deemed disqualified.

7. (1) The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely:—

(*a*) minors who have not guardians appointed for their property by will;

(*b*) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs; and

(*c*) persons declared by the Chief Commissioner to be incapable of managing their own property—

(i) owing to any physical defect or infirmity,

(ii) owing to their having been convicted of a non-bailable offence, and being unfitted by vice or bad character,

(iii) owing to their being females, or

(iv) on their own application.

(2) Every declaration made by the Chief Commissioner under clause (*c*) of this section shall be final, and shall not be questioned in any Civil Court.

Superintendence by Court of Wards of person of disqualified landholder.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Chief Commissioner, assume the superintendence of his person also:

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.

9. Where a landholder owns land within the local limits of the jurisdiction of two or more Courts of Wards, such one only of the Courts as the Chief Commissioner may in this behalf determine shall assume the superintendence of the property, or of the person and property, of the landholder.

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Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.

10. When the Court of Wards has, with the sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder, or was not or is not a minor.

Appointment, &c., of managers by Court of Wards.

11. Subject to the rules made under this Act, the Court of Wards may appoint, suspend, and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Act.

Liabilities, &c., of managers and other servants of Court of Wards.

12. (1) Every manager appointed by the Court of Wards shall—

(*a*) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;

(*b*) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties; and

(*c*) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164, and 165 of the Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

Power for Court of Wards to appoint guardians of certain Government wards.

13. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence, and may control and remove guardians whom it has appointed.

General powers of Court of Wards.

14. Subject to the provisions of this Act and of the rules made under this Act, the Court of Wards—

(*a*) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if not disqualified, might do for its care and management; and

(*b*) may, of itself or through the guardian (if any) appointed by it under this Act, do in respect of the person of any Government ward, whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

Custody, education, and residence of certain Government wards.

15. The Court of Wards may pass such orders as to it seems fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

Allowance for Government ward and his family.

16. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependants.

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Duties of Court of Wards or manager.

17. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Powers of Court of Wards as to property of Government wards.

18. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Chief Commissioner, mortgage, sell, or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.

19. In every suit brought by or against a Government ward, the manager of the ward's property, or, if there is no manager, the Court of Wards having the superintendence of the ward's property, shall be named as next friend or guardian for the suit, as the case may be.

Payment of costs.

20. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes against Government ward to be served on next friend or guardian.

21. Every process which may be issued out of any Civil Court against any Government ward shall be served on the ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

22. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards:

Provided as follows:—

(1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

(2) a suit for arrears of rent may be brought on behalf of a Government ward if authorized by an order of the manager of the property on which the rent is due.

Disabilities of a Government ward.

23. (1) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability.

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

Consent of Chief Commissioner necessary to adoptions by Government wards.

24. No adoption by any Government ward, and no written or verbal permission to adopt given by any Government ward, shall be valid without the consent of the Chief Commissioner obtained either previously or subse-

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quently to the adoption, or to the giving of the permission, on application made to him through the Court of Wards.

Procedure when succession to Government ward's property is disputed.

25. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may either direct that the property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court.

Withdrawal of superintendence of Court of Wards.

26. (1) The Court of Wards may, with the sanction of the Chief Commissioner, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as—

(*a*) in the case of a person disqualified under clause (*a*) of section 7, he attains his majority;

(*b*) in the case of a person disqualified under clause (*b*) of that section, he ceases to be of unsound mind and incapable of managing his affairs; and

(*c*) in the case of a person disqualified under sub-clause (i) of clause (*c*) of that section, his physical defect or infirmity is removed or ceases.

(2) When any question arises whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (*a*), or from any property under clause (*c*), of this section, the decision of the Chief Commissioner thereon shall be final, and shall not be questioned in any Civil Court.

Appeals.

27. An appeal shall lie from every order of the Court of Wards under this Act to the Commissioner of the division, and from every order of the Commissioner to the Chief Commissioner

Control of Chief Commissioner.

28. All orders or proceedings of the Court of Wards and of the Commissioner of the division under this Act shall be subject to the supervision and control of the Chief Commissioner; and the Chief Commissioner may, if he thinks fit, revise, modify, or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Exercise of discretion not to be questioned in Civil Court.

29. The exercise of any discretion conferred on a Court of Wards, a Commissioner of a division, or the Chief Commissioner by this Act, shall not be called in question in any Civil Court.

Power for Chief Commissioner to make rules.

30. (1) The Chief Commissioner may, from time to time, make rules consistent with this Act to—

(*a*) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration;

(*b*) regulate the amount of security to be given by managers;

(*c*) limit the functions which the Court of Wards may delegate to a manager;

(*d*) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Chief Commissioner or for that of the Commissioner of the division;

(*e*) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered by managers to the Court of Wards, and by the Court of Wards to the Commissioner of the division;

(*f*) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(*g*) regulate the procedure in inquiries by the Court of Wards and in appeals from orders of the Court of Wards or the Commissioner of the division respectively under this Act;

(*h*) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits;

(*i*) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned; and

(*j*) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(2) All rules made under this section shall be published in the local official Gazette, and shall thereupon have the force of law.

ACT NO. XVIII. OF 1885.

LAND-ACQUISITION (MINES) ACT.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH OCTOBER 1885.

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as follows:—

Short title, commencement, and local extent.

1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885; and

(2) It shall come into force at once.

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

Saving for mineral rights of the Government.

2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the Government to any mines or minerals.

Declaration that mines are not needed

3. (1) When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate, or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

(*a*) when he makes an award under section 14 of that Act insert such a statement in his award;

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(b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or

(c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award, or reference, or published as aforesaid, the mines of coal, iron-stone, slate, or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

Notice to be given before working mines lying under land

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

Power to prevent or restrict working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, in such manner as the Governor-General in Council may, from time to time, direct, a declaration of its willingness, either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

Mode of determining persons interested and amount of compensation.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals, and the amounts of compensation payable to them respectively, shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

If Local Government does not offer to pay compensation, mines may be worked in a proper manner.

7. (1) If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee, or occupier of the mines, may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof,

and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee, or occupier of the mines, shall at once, at his own expense, repair the damage, or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee, or occupier, the Local Government may execute the same, and recover from the owner, lessee, or occupier the expense occasioned thereby.

Mining communications.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees, and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways, or water-levels through the mines, measures, or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain, and work their said mines; but no such airway, headway, gateway, or water-level, shall be of greater dimensions or section than may be prescribed by the Governor-General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

Local Government to pay compensation for injury done to mines.

9. The Local Government shall, from time to time, pay to the owner, lessee, or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee, or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

And also for injury arising from any airway or other work.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee, or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

Power to officer of Local Government to enter and inspect the working of mines.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Goverment may, after giving twenty-four hours' notice in writing, enter into and return

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from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee, or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

Penalty for refusal to allow inspection.

12. If any owner, lessee, or occupier of any such mines or works, refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee, or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired and the works thereon, and preventing injury thereto; and if, after such notice, any such owner, lessee, or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works, and recover the expense thereof from the owner, lessee, or occupier.

Construction of Act when land acquired has been transferred to a local authority or Company.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government," wherever they occur in those sections, the words "the local authority or Company, as the case may be, which has acquired the land," were substituted.

Pending cases.

15. (1) This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same.

(2) When the Collector has, before the said time, made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may, by an order in writing, direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

Definition of local authority and Company.

16. In this Act—

(*a*) "local authority" means any municipal committee, district board, body of port commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund; and

(*b*) "Company" means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

This Act to be read with Land Acquisition Act, 1870.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with, and taken as part of, the Land Acquisition Act, 1870.

ACT NO. XIX. OF 1885.

INDIAN SECURITIES.

[*Repealed by Act No. XIII. of 1886.*]

ACT NO. XX. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH OCTOBER 1885.

An Act to postpone for a limited time the operation of certain provisions of the Bengal Tenancy Act, 1885.

WHEREAS it is provided by the Bengal Tenancy Act, 1885, that that Act shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf;

And whereas, in exercise of the power thus conferred, the Local Government, with the previous sanction of the Governor-General in Council, has, by a notification in the local official Gazette, appointed the first day of November, 1885, as the date on which the said Act is to come into force;

And whereas it is convenient that certain portions of the said Act relating to deposits of rent and distraint should not come into force until a later date;

It is hereby enacted as follows:—

Postponement of operation of deposit and distraint provisions.

1. Notwithstanding anything contained in the said notification—

(*a*) the provisions of sections 61 to 64, both inclusive, and of Chapter XII., of the said Act, except such of those provisions as confer powers to make rules, shall come into force on such date, not later than the first day of February 1886, as the Local Government, after the passing of this Act, may, by notification in the local official Gazette, appoint in this behalf, or, if no date is so appointed, on the first day of February 1886, and not before;

(*b*) until those provisions come into force, the enactments specified in Schedule I. annexed to the said Act shall, in so far as they relate to deposits of rent and distraint, continue in force, and all references to those provisions in other portions of the said Act shall, so far as may be, be read as if they were made to the corresponding provisions of the said enactments.

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ACT NO. XXI. OF 1885.

RECEIVED THE G.-G.'S ASSENT ON THE 26TH OCTOBER 1885.

An Act to amend the Madras Civil Courts Act, 1873.

WHEREAS it is expedient to amend the Madras Civil Courts Act, 1873; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Madras Civil Courts Act, 1885; and

(2) It shall come into force at once.

Addition to section 5 of Act III. of 1873.

2. To section 5 of the Madras Civil Courts Act, 1873, the following shall be added, namely:—

"The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court."

Addition to section 11 of the same Act.

3. To section 11 of the same Act the following shall be added, namely:—

"If the High Court assigns the same local jurisdiction to two or more District Munsifs, it shall declare which of them shall be deemed the Principal District Munsif, and the other, or others, shall be called Additional District Munsifs, and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the District Judge."

Amendment of sections 22 and 23 of the same Act.

4. (a) In section 22 of the same Act, before the words "be final," and

(b) in section 23 of the same Act as amended by Act XIX. of 1877, before the words "be suspended or removed,"

the words "subject to the control of the High Court" shall be inserted.

Amendment of section 28 of the same Act.

5. In section 28 of the same Act—

(a) before the words "Subordinate Judge," in both places where they occur, the words "District or" shall be inserted;

(b) after the words "rupees fifty" the words "or on the recommendation of the High Court up to any amount not exceeding rupees two hundred" shall be inserted.

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ACT NO. I. OF 1886.

LAHORE TRAMWAYS.

RECEIVED THE G.-G.'S ASSENT ON THE 6TH JANUARY 1886.

An Act to authorise the making, and to regulate the working, of Street Tramways in Lahore.

WHEREAS the Municipal Committee of Lahore, by an agreement dated the seventh day of February, 1885, a copy whereof is set forth in the schedule annexed to this Act, granted, for the considerations therein expressed, to David Parkes Masson, John Robson, and Arthur Milford Ker, their heirs, executors, administrators, and assigns, hereinafter called the grantees, the right to construct, maintain, and use a tramway or tramways in Lahore upon the terms, subject to the conditions, and in the manner mentioned in the said agreement, and the said agreement was made subject to the confirmation and recognition thereof by the Government of the Panjáb;

And whereas the Government of the Panjab has confirmed and recognised the said agreement, and it is now expedient that effect be given to it, subject to the provisions and limitations hereinafter contained;

It is hereby enacted as follows:—

Preliminary.

Short title and commencement.

1. (1) This Act may be called the Lahore Tramways Act, 1886; and

(2) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"Committee" means the Committee established for the municipality of Lahore under the Panjáb Municipal Act, 1884:

"tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line, or track belonging to a tramway: and

"street" means any way, street, road, lane, square, court, alley, passage, or open space, whether a thoroughfare or not, over which the public have a right of way, and along or across which any tramway authorised by this Act is or is intended to be laid, and includes the surface-soil and subsoil of any such street, and the footway and drains of any such street, and any bridge, culvert, or causeway forming part of any such street.

Powers of Grantees generally.

Powers to construct, maintain, and use tramways.

3. Subject to the provisions of this Act, and to the terms and conditions of the said agreement, so far as the same are not inconsistent with this Act, or are not provided for thereby, the grantees may, within the local area included on the seventh day of February 1885, within the limits of the municipality of Lahore, construct, maintain, and use any of the tramways for the construction, maintenance, and use of which provision is made in the said agreement:

Provided that any such tramway shall not be opened for public traffic until it has been inspected and certified to be fit therefor by an engineer appointed in this behalf by the Local Government.

Construction and Maintenance of Tramways and of Streets on which they are laid.

Power to grantees to break up streets and lay rails, &c.

4. Subject to the terms and conditions of the said agreement, the grantees may, from time to time, for the purpose of constructing, maintaining, or renewing any tramway under this Act, open or break up any street, and therein or thereon lay sleepers and rails, and repair, alter, or remove the same; and may, for the purposes aforesaid, do in and on any such street all other acts which may, from time to time, be necessary for constructing, maintaining, or renewing the tramway:

Provided that they shall not, without the consent of the Committee, open or break up at any one time a greater length than one hundred yards of any street which does not exceed a quarter of a mile in length; and in the case of any street exceeding a quarter of a mile in length they shall leave an interval of at least a quarter of a mile between any two places at which they may open or break up the street, and shall not open or break up at any such place a greater length than one hundred yards.

Grantees to keep tramways and adjoining part of street in repair.

5. The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the Committee from time to time directs, all tramways constructed by them under this Act, and so much of any street as lies between the rails of any such tramway, and in the case of double lines or turnouts or sidings, the portion of the street between the tramways, and in every case so much of the street as extends eighteen inches beyond the rails of and on each side of any such tramway.

Obligations of grantees when they have broken up street.

6. When the grantees have, for the purposes of section 4 or section 5, opened or broken up any portion of a street, they shall be under the following further obligations, namely:—

(*a*) they shall, with all convenient speed, and in all cases within six weeks at the most, unless the Committee otherwise consents in writing, complete the work for which the street has been opened or broken up, fill in the ground, and make good the surface, and, to the satisfaction of the Committee, restore the street to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby;

(*b*) they shall, in the meantime, cause the place where the street is opened or broken up to be fenced and watched, and to be properly lighted from sunset to sunrise; and

(*c*) they shall be answerable for all injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of the opening or breaking up of the street.

Reservation of power of Committee and Government over streets.

7. (1) Nothing in this Act or in the said agreement shall prevent the Committee or any Government officers from opening, breaking up, widening, altering, diverting, or improving any street traversed by a tramway for the purposes for which they might otherwise under the law for the time being in force lawfully open, break up, widen, alter, divert, or improve such street:

Provided that—

(*a*) they shall cause as little detriment or inconvenience to the grantees as circumstances admit; and

(*b*, before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees not less than eighteen hours' previous notice of their intention to commence the work, specifying the time at which they will commence it.

(2) The Committee or officers aforesaid, or the Secretary of State for India in Council, shall not be liable to pay to the grantees any compensation for injury done to the tramway by the execution of any work referred to in sub-section (1), or for loss of traffic occasioned by the reasonable use of any power lawfully exercised in connection with the same.

Rights over Tramways and Streets on which they are laid.

Grantees' exclusive right over tramways.

8. The grantees shall, subject to the provisions of this Act and to the terms and conditions of the said agreement, have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail:

Provided that nothing in this Act or in the said agreement shall affect the right of the public to pass along or across any part of any street along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail.

Grantees to have right of user only.

9. Notwithstanding anything in this Act or in the said agreement, the grantees shall not acquire any right other than that of user over any street along or across which they lay any tramway.

Power of Committee and Government officers to regulate traffic on streets.

10. Nothing in this Act or in the said agreement shall affect any powers possessed by the Committee or by any Government officers to regulate the passage of any traffic along or across any street along or across which any tramway is laid down, and the Committee or officers aforesaid may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

Traffic on Tramways.

Rates of fares and charges.

11. The grantees may, from time to time, by a notice published in such languages, and in such manner as the Local Government may prescribe, fix the rates of fares and charges for carrying passengers and goods in their carriages:

Provided that the rates of passenger fares shall not exceed one anna per mile for each passenger in the lower class, and two annas per mile for each passenger in the higher or first class.

Mode of payment of fares and charges.

12. The fares and charges by this Act authorised shall be paid to such persons, at such places upon or near to the tramways, and in such manner and under such regulations as the grantees may, by a notice published as aforesaid, from time to time prescribe.

Carriage of dangerous or offensive goods.

13. (1) No person shall be entitled to carry or to require to be carried on any tramway construed under this Act any goods of a dangerous or offensive nature.

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(2) Every person taking such goods with him on any such tramway shall, before entering the carriage, give notice of their nature to the servant of the grantees in charge of the carriage.

(3) Every person sending such goods by any such tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the book-keeper or other servant of the grantees with whom they are left at the time of such sending.

(4) Any servant of the grantees may refuse to carry upon any such tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

Offences and Penalties.

Penalty for failure of grantees to comply with certain provisions of Act and agreement.

14. If the grantees—

(*a*) construct or maintain any tramway, or run any carriage thereon, otherwise than in accordance with the said agreement and with this Act and the rules made under this Act;

(*b*) open any tramway for traffic before it has been inspected and certified in manner required by section 3;

(*c*) open or break up any street otherwise than as permitted by this Act, or, having opened or broken up a street, fail to discharge any of the obligations imposed on them by section 6, clauses (*a*) and (*b*); or

(*d*) fail to fulfil the requirements of section 5;

each of them shall (without prejudice to the enforcement of specific performance of the provisions of this Act or of the said agreement, or to any other remedy against them), on complaint of the Committee or of any person injuriously affected thereby, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for each day after the first day during which the offence continues to be committed.

Penalty for obstructing grantees in the exercise of their powers.

15. Any person who, without lawful excuse (the proof whereof shall lie on him), wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in constructing, maintaining, or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, shall be punished with fine which may extend to fifty rupees.

Penalty for interfering with tramway.

16. Any person who, without lawful excuse (the proof whereof shall lie on him), wilfully does any of the following things, namely:—

(*a*) interferes with, removes, or alters any part of a tramway constructed under this Act, or of the works connected therewith;

(*b*) places or throws upon or across any such tramway any wood, stone, refuse, or other thing;

(*c*) does anything in such a manner as to obstruct any carriage using any such tramway; or

(*d*) abets, within the meaning of the Indian Penal Code, the doing of anything mentioned in clause (*a*), clause (*b*) or clause (*c*);

shall be punished with fine which may extend to one hundred rupees.

17. Any person taking or sending by any tramway any goods of a dangerous or offensive nature without giving the notice required by section 13 shall be punished with fine which may extend to fifty rupees.

Penalty for taking or sending dangerous or offensive goods without giving notice.

18. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional fare for the additional distance or attempts to avoid payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit the carriage, he shall be punished with fine which may extend to ten rupees.

Penalty for avoiding payment of proper fare.

19. (1) When a person commits an offence under section 18, and refuses, on demand of a servant of the grantees, to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call in for his assistance.

Power of servant of grantees to arrest persons avoiding payment of fare.

(2) When the person is taken to the police-station, he shall, with the least possible delay, be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

Powers to make Rules.

20. (1) The Local Government may make rules consistent with this Act for regulating the use of steam-power or any other mechanical power on any of the tramways, and for the inspection of the engines worked on or in connection with the tramways for the purpose of producing that power.

Powers to make rules.

(2) The Committee at a special meeting may, with the sanction of the Local Government, from time to time, make such rules consistent with this Act as to the rate of speed, number of passengers, and mode of use of the tramways, and as to the licensing and control of drivers, conductors, and other persons having charge of the carriages of the grantees, as the convenience and safety of the public may, in the opinion of the Committee, require.

(3) The grantees may, with the like sanction, from time to time, make rules consistent with this Act for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them, and for regulating the travelling in any carriage belonging to them

(4) The authority making any rule under this section may prescribe as a punishment for the breach of it a fine which may extend—

(*a*) if the authority making the rule is the Local Government, to two hundred rupees; and

(*b*) if that authority is the Committee or the grantees, to twenty rupees.

(5) All rules made under this section shall be published in the local official Gazette.

Supplemental Provisions.

21. The said agreement shall, subject to the provisions and limitations in this Act contained, be deemed, for all the purposes thereof, to have been confirmed and recognised by the Government of the Panjáb on the date of the passing of this Act.

Commencement of agreement.

1886.

Act 1.

22. For the purposes of clauses 17 and 24 of the said agreement the want of sufficient funds shall not be deemed to be a circumstance beyond the control of the grantees.

Construction of clauses 17 and 24 of agreement.

23. The plant, rolling-stock, and other vehicles, yards, workshops, engine-sheds, and depôts of the grantees, shall, for a period of five years from the passing of this Act, be exempt from all municipal taxation, except such lighting-rates and water-tax as may, from time to time, be payable in respect of the yards, workshops, engine-sheds, and depôts.

Exemption from certain municipal taxation.

24. If a local area in which a tramway has been constructed under this Act is at any time excluded from the municipality of Lahore, all the authority of the Committee under the said agreement and this Act and the rules made under this Act shall, in respect of that local area, devolve on the Local Government.

Transfer of control on exclusion of local area from municipality.

25. Nothing in this Act or in the said agreement shall exempt the grantees or any tramway constructed by them under this Act from the provisions of the Indian Railway Act, 1879, section 54, or of any general enactment relating to tramways now in force or which may hereafter be passed.

Provisions as to other Acts.

26. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it:

Saving of prosecutions under other laws.

Provided that a person shall not be punished twice for the same offence.

THE SCHEDULE.

ARTICLES OF AGREEMENT, made this seventh day of February, 1885, between the MUNICIPAL COMMITTEE OF LAHORE, PANJAB, hereinafter called the Lahore Municipality, of the one part, and D. P. MASSON, JOHN ROBSON, and ARTHUR MILFORD KER, OF LAHORE, hereinafter called the grantees, of the other part.

WHEREAS the said Lahore Municipality, subject to the confirmation of the Government of the Panjáb, and to the recognition of this agreement by the said Government of the Panjáb, have agreed to grant to the said grantees the right to construct, maintain, and use a tramway or tramways in Lahore upon the terms and conditions hereinafter contained.

2. NOW THESE PRESENTS witness that, in consideration of the covenants hereinafter contained, and on the part of the said Lahore Municipality to be performed, the said grantees, for themselves, their heirs, executors, and assigns, do covenant with the said Lahore Municipality, so far as the covenants and agreements hereinafter contained are to be performed by the said grantees and their heirs, executors, administrators, and assigns, and the said Municipality, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said grantees and their heirs, executors, administrators, and assigns to be performed, do hereby covenant with the said grantees and their heirs, executors, administrators, and assigns, so far as the covenants and agreements hereinafter contained are to be performed by the said Lahore Municipality, their successors and assigns, in manner following, that is to say :—

The said Lahore Municipality grant to the said grantees and their heirs, executors, administrators, and assigns, all which persons are hereinafter included in the words "the said grantees," the right to construct, maintain, and use a tramway or

tramways with all necessary sidings, turnouts, connections, and lines of whatever nature which may be required to connect the said tramway with the depôts of the said grantees (but in the case of sidings and turnouts only in such places as the said corporation may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Municipality :—

Clause 1.—(*1st.*) A line commencing at the junction of Nicholson and Mayo Roads near the Sindh, Panjáb, and Delhi Railway workshops, and continued along the road in front of the Railway Station through the Landa Bazar to the Delhi Gate, thence by the circular road on the south side of the City to the end of the Anarkali Bazar near the Lohari Gate.

(*2nd.*) A line, being a continuation of the above, through the Anarkali Bazar past the Museum to the junction of the Church Road near Kapurthala House.

(*3rd.*) A line in continuation leading to Mozang.

(*4th.*) A line commencing at the junction of Mayo and Nicholson Roads continued along the Mayo Road through Shalu-ki-Garhi to Meean Meer Bazar.

Lines 1 and 2 are delineated on the map or plan hereunto annexed and signed by the parties hereto. The lines shall be single, except at crossing stations, where they shall be double.

Clause 2.—The said grantees shall further (subject to clauses 3 and 4) have the exclusive right of laying, constructing, maintaining, and using a tramway or tramways within the limits of the Lahore Municipality on the terms contained in these presents : provided always that if the said grantees shall at any time or times, not being a period less than three months after the construction of the lines 1 and 2 enumerated in clause 1, refuse or neglect for three months to accept any proposal by the said Lahore Municipality for the construction, maintenance, and use of any tramway or tramways other than those mentioned in clause 1, which the said Lahore Municipality may consider necessary or desirable, it shall be lawful for the said Lahore Municipality to employ any other person or company for the purposes aforesaid or any of them, and to make such arrangements as they may think proper independently of the said grantees.

Clause 3.—The said grantees shall construct in such manner as to be available for use at least tramways 1 and 2 within two years from the date of obtaining the sanction and approval of the Government of the Panjáb, and they shall, before the expiration of the third year, give notice in writing to the said Lahore Municipality of the lines they intend to construct during the next succeeding two years ; and failing the observance by the said grantees of the terms of this clause, it shall be lawful for the said Lahore Municipality to withdraw and cancel the concessions and rights granted by these presents to the said grantees as regards the lines remaining to be constructed.

Clause 4.—If the grantees shall, at the expiration of five years from the date of commencement of this contract, have left any one or more lines hereinbefore in clause 1 specified unconstructed, and if the said Lahore Municipality shall not have exercised the rights conferred on them by clause 3, the said Lahore Municipality may call upon the said grantees to construct the line or lines, and if the said grantees do not construct the line or lines within twelve calendar months after receiving such formal notice then their power granted in this concession shall, so far as relates to that line or lines, cease, and the said Lahore Municipality may make arrangements with other persons for the construction of the same.

Clause 5.—Any tramway or tramways to be constructed under this agreement shall be constructed on the metre gauge of 3 feet 3⅜ inches, or on such other gauge not exceeding 4 feet 8½ inches as may be mutually agreed upon, and specially the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road ; and before the work of construction is begun the drawings and specifications showing the proposed construction of each tramway shall be submitted to the said Municipality and be approved by them, and the cars and carriages intended to run on the said tramways shall also be such as shall have been approved of by the Municipality. The rail to be used is the ordinary grooved rail of steel weighing 34 pounds per yard.

Clause 6.—If the said Municipality shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorised is laid or authorised to be laid, the grantees shall alter or (as the case may be) lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road so altered : provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use and working thereof.

Clause 7.—The cars and carriages of the said grantees on the tracks of the said tramways shall be worked with such power, animal or mechanical, as the said grantees may think suitable, provided that no steam carriages may be used without the special consent of the Municipality (Commissioners in special general meeting) and the sanction of the Panjáb Government, and provided also that the said Municipality (Commissioners in special general meeting) shall have power at all times to make such regulations as to the rate of speed, number of passengers, and mode of use of the said tracks as the convenience and safety of the public using the street may require.

Clause 8.—The said grantees shall have power from time to time to fix the rate of fares for carrying persons and goods in the cars or carriages to be run on the said tramway or tramways : provided that the rates of fares shall for any distance not exceed the rate of one anna per mile for the lower class, and two annas per mile for the higher or first class for each passenger.

Clause 9.—The said grantees may, for the purpose of constructing and maintaining such tramways under such superintendence as is hereinafter specified, open and break up the soil and metalled way of the several streets, roads, and bridges, and thereon lay sleepers and rails, and from time to time repair, alter, or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets, roads, and bridges, and the said grantees may, in and on such streets, roads, and bridges, do all other acts which they shall from time to time deem necessary for constructing and maintaining street tramways, doing as little damage as may be in the execution of the powers hereby granted, and shall make good all damage done to drains, sewers, water and gas pipes, or to the wires or other materials or things used for any other system of lighting, and whether belonging to the said Municipality or to private individuals, and shall make compensation for any other damage done in the execution of such powers.

Clause 10.—Before the said grantees proceed to open or break up any street, road, or bridge, they shall obtain the approval in writing of the said Committee to the tracks or lines of the said tramway being laid down on the said streets, roads, or bridges, and the said grantees, before opening or breaking up any street, road, or bridge, shall give to the said Committee or their Executive Engineer, or other municipal officer duly appointed for that purpose, notice in writing of their intention to open or break up the same not less than three clear days before beginning such work, except in such cases of emergency arising from defects in any of the rails or other works, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

Clause 11.—No street, road, or bridge, shall, except in cases of emergency as aforesaid, be opened or broken up, except under the superintendence of the said Committee or of their Executive Engineer, or of some other municipal officer duly appointed for that purpose, and according to such plans as shall be approved of by him or them : provided always that, if the said Committee or their Engineer or other such officer as aforesaid fail to attend at the time fixed for the opening of any such street, road, or bridge after having had such notice of the said grantees' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said grantees may perform the work specified in such notice without such superintendence as aforesaid.

Clause 12.—When the said grantees open or break up the roadway or pavement of any street, road, or bridge, they shall, with all convenient speed, complete the work for which the same shall be broken up, and fill in the ground, and make good the roadway or pavement so opened or broken up as aforesaid, and carry away the rubbish occasioned thereby, and deposit the same for the use of the said Committee at such place as the Executive Engineer of the said Municipality shall direct,

and shall at all times, whilst any such roadway or pavement shall be so opened or broken up, cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such roadway or pavement where the same shall be open or broken up every night during which the same shall continue open or broken up.

Clause 13.—If the said grantees open or break up any street, road, or bridge without giving such notice as hereinbefore mentioned, or in a manner different from that which shall have been approved of or determined as aforesaid, except in the cases in which the said grantees are hereby authorised to perform such work without any superintendence or notice, or if the said grantees shall make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good, so far as is consistent with the existence of the said tramway, the roadway or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such roadway or pavement has been broken up to be guarded and lighted, they shall forfeit to the said Committee a sum not exceeding fifty (50) rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty (50) rupees for each day during which any such delay or neglect as aforesaid shall continue after they shall have received notice thereof.

Clause 14.—The said grantees shall maintain and keep in repair such portion of the streets, roads, and bridges as shall be occupied by their tracks or lines, including therein, not only the space between their tracks or lines, but a space eighteen inches on either side thereof, and in consideration of the maintenance of such streets, roads, and bridges as aforesaid, and of the yearly rent hereinafter mentioned to be paid by the grantees, the plant, rolling-stock, and other vehicles, yards, workshops, engine-sheds, and depôts of the said grantees, shall be exempt from municipal taxation for a period of five years, except lighting and water-rates for such yards, workshops, engine-sheds, and depôts.

Clause 15.—The said grantees shall be liable for any loss, damage, or injuries that any person or persons may sustain by reason of any defect or want of repairs in any of the plant, rolling-stock, or other properties of the said grantees, or by reason of any carelessness, neglect, or misconduct of their agents or servants in the management, construction, or use of the tramways or any portion thereof; the same shall be made good by the said grantees, and in the event of any suit being instituted against the said committee in respect of any of the matters hereinbefore mentioned, the said grantees shall, within fourteen days from the receipt of a notice thereof from the said Committee, settle the same; but if the said grantees choose to defend such suit, they shall be at liberty to do so upon their undertaking to indemnify the said Committee against all losses, damages, and expenses in respect thereof: provided always that, if the said grantees fail to settle such suit or to indemnify the said Committee as is hereinbefore provided, it shall be lawful for the said Committee to settle the same without any consent or concurrence on the part of the said grantees, and the sums which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said grantees.

Clause 16.—Nothing in this agreement shall be construed to prevent the said Committee from taking up any of the public streets or roads traversed by the said tramway for the purposes for which the said Committee may lawfully take up the same, and the said grantees shall have no right to claim cost from the said Committee for obstructing the tramway or causing delay in the traffic so long as the delay shall not be unreasonable for the work to be performed.

Clause 17.—If at any time after the opening of any tramway for traffic the said grantees shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the said grantees), it shall be lawful for the said Committee, without any previous notice to the said grantees, to remove the tramway or part of the tramway so discontinued, and the said grantees shall pay to the said Committee the cost of such removal and of the making good of the street, road, or bridge, and the certificate of the said Committee or of their engineer as to such costs shall be conclusive.

Clause 18.—The provisions of this agreement shall remain and be in force for a term not less than twenty one (21) years from the date thereof. The said Committee shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock, sheds, depôts, and yards, and everything connected therewith, after the expiration of the said twenty-one (21) years, upon declaring its intention so to do within six months after the expiration of the said twenty-one (21) years; the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value at the termination of this agreement, exclusive of any compensation for good-will, premium on compulsory sale, or other consideration whatever, of the tramways and of the work and materials connected therewith, and of the lands and buildings and all the other property of the grantees, such value to be decided by mutual agreement or by arbitration as hereinafter provided.

Clause 19.—The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantees by any route or routes to be hereafter sanctioned by the said Committee, and to the works connected with or incidental to such tramways, it being agreed that in the event of the Municipality failing to declare its intention as above provided to purchase the property of the said grantees, the terms of this contract shall continue in force during the period of six months from the date of the determination of these presents and for a further period of six months, and if the said Committee shall not within that time exercise the option of purchase hereby given, the said Committee and the said grantees shall enter into a fresh agreement.

Clause 20.—The said grantees will, if required by the Municipality, before opening and breaking up the soil and pavement of any street or bridge, deposit in an approved Bank in Lahore, in the name of the Municipality, the sum of Rs. 1,000 or in their option Promissory Notes of the Government of India or Municipal Bonds of the nominal value of Rs. 1,000, and the same will remain so deposited until the completion by the said grantees of the lines of tramway herein sanctioned for immediate construction. But all interest accruing on the said sum or the said notes shall be credited to the said grantees, and, subject as next hereinafter mentioned, be paid to them as the same shall accrue due: provided, nevertheless, that the said Municipality shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes, or out of the proceeds of sale of the said notes, all moneys to which they may be entitled under any clause or clauses of these presents.

Clause 21.—In consideration of the concession hereby granted, the said grantees will pay to the said Lahore Municipality rents at the rates and under the conditions hereinafter specified; that is to say, for the first two years after the opening of the tramway or tramways no rent will be charged, after the expiration of the first two years, and during the next ensuing year, the rental shall be one-tenth of the annual average profits as shown by the company's books during the preceding two years, this rental to be subject to revision at the end of every two years, and the maximum charge or rental made by the said Municipality shall under no circumstance exceed one-tenth of the net profit divided by the company in every period of two years immediately preceding each adjustment of the charge. The books and accounts shall at all times be open to the inspection of the Municipal Committee, and should any dispute arise as to the exact charge to be made by the said Municipality, then such matter or matters in dispute shall be referred to arbitrators as detailed in clause 25 of this agreement. If the said rent or any part thereof shall not be paid on due date, the said grantees shall be liable to pay interest thereon at the rate of 8 per cent. per annum from the due date until payment.

Clause 22.—From and after the commencement of the 15th year of this contract to the end of the 21st, the said grantees shall not be at liberty to enter upon any fresh arrangements or expenditure which would increase their capital account in connection with this contract without first notifying their intention to the said Municipality and obtaining their approval thereof and sanction thereto in writing.

Clause 23.—The sleepers, rails, materials, and implements, and other erections placed and erected by the said grantees on the streets, bridges, or roads under the powers hereby granted, shall be and remain the property of the said grantees, and

the said grantees shall have the exclusive use of their tramway or tramways for carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

Clause 24.—Unless the said grantees shall have commenced the work of laying down the said tramways within twelve months from the date of the execution of these articles of agreement, the said Committee shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways; it being agreed, however, that these conditions of contract are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said 12 months shall date from the day on which notice of such sanction is given to the said grantees: provided also that any delay in commencing the work beyond 12 months shall not have been due to any cause beyond the control of the said grantees.

Clause 25.—If any doubt, difference, or dispute, shall arise between the said grantees and the said Committee touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference, or dispute, shall be referred to the arbitration of two persons, one to be chosen by the said grantees, and the other by the said Committee, within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone, and the decision of such arbitrators, umpire, or arbitrator, as the case may be, shall be effectual and binding upon both parties.

Clause 26.—The said grantees are to be at liberty to form a Company or Limited Liability Company for the purpose of constructing, maintaining, and working the tramways authorised by or hereafter to be authorised under the terms of this agreement. The words "the said grantees" used in this agreement shall include such Company or Limited Liability Company so formed as aforesaid.

Clause 27.—The words "the said Committee" used in this agreement shall include the present Committee and their successors, and also persons empowered by the said Committee or their successors or by other duly constituted authority to do any act or thing, or exercise any powers or authorities, which the said Committee are hereinbefore authorised or empowered to do or exercise.

ACT NO. II. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH JANUARY 1886.

An Act for imposing a tax on income derived from sources other than agriculture.

WHEREAS it is expedient to impose a tax on income derived from sources other than agriculture; It hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Extent and commencement.

1. (1) This Act extends to the whole of British India, and applies also, within the dominions of Princes and States in India in alliance with Her Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor-General Council in that behalf; and

(2) It shall come into force on the first day of April, 1886.

1886. Act 2.

(3) Any power conferred by this Act to make rules or to issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

Repeal.

2. On and from the day on which this Act comes into force, the enactments specified in the first schedule to this Act shall be repealed, except as to fees payable and other sums due under those enactments and the mode of recovering the same.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "local authority" means any municipal committee, district board, body of port commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund:

(2) "company" means an association carrying on business in British India, whose stock or funds is or are divided into shares and transferable, whether the company is incorporated or not, and whether its principal place of business is situate in British India or not:

(3) "prescribed" means prescribed by the Governor-General in Council by notification in the Gazette of India, or by the Governor-General in Council or a Local Government by rules made under this Act:

(4) "salary" includes allowances, fees, commissions, perquisites, or profits received, in lieu of or in addition to a fixed salary, in respect of an office or employment of profit; but, subject to any rules which may be prescribed in this behalf, it does not include travelling, tentage, horse, or sumptuary allowance, or any other allowance granted to meet specific expenditure:

(5) "income" means income and profits accruing and arising or received in British India, and includes, in the case of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty, any salary, annuity, pension, or gratuity payable to that subject by the Government or by a local authority established in the exercise of the powers of the Governor-General in Council in that behalf:

(6) "Magistrate" means a Presidency Magistrate or a Magistrate of the first or second class:

(7) "person" includes a firm and a Hindu undivided family:

(8) "defaulter" includes a company or firm making default under this Act:

(9) "Collector" means the chief officer in charge of the revenue-administration of a district, and, in a presidency-town, any officer whom the Local Government, by notification in the official Gazette, may, by name or by virtue of his office, appoint to be a Collector for the purposes of this Act; in the case of a company or firm, it means the Collector, as here defined, of the district or presidency-town in which its principal place of business in British India is situate; and, in the case of any other person chargeable under this Act, it means the Collector, defined as aforesaid, of the district or presidency-town in which the person has his residence:

(10) "principal officer," used with reference to a local authority or a company or any other public body or association not being a local authority or company, means—

(a) the secretary, treasurer, manager, or agent of the authority, company, body, or association; or

(b) any person connected with the authority, company, body, or association upon whom the Collector has caused a notice to be served of his intention of treating him as the principal officer thereof; and

(11) "Part" means a Part of the second schedule to this Act.

CHAPTER II.

LIABILITY TO TAX.

Incomes liable to the tax.

4. Subject to the exceptions mentioned in the next following section, there shall be paid, in the year beginning with the first day of April 1886, and in each subsequent year, to the credit of the Government of India, or as the Governor-General in Council directs, in respect of the sources of income specified in the first column of the second schedule to this Act, a tax at the rate specified in that behalf in the second column of that schedule.

Exceptions.

5. (1) Nothing in section 4 shall render liable to the tax—

(*a*) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue or subject to a local rate assessed and collected by officials of the Government, as such ; or

(*b*) any income derived from—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce; or

(*c*) any building owned and occupied by the receiver of the rent or revenue of any such land as is referred to in clause (*a*), or by the cultivator, or the receiver of rent-in-kind, of any land with respect to which or the produce whereof any operation mentioned in clause (*b*) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind, by reason of his connection with the land, requires as a dwelling-house, or as a store-house, factory, or other out-building ; or

(*d*) any profits of a shipping company incorporated or registered out of British India, and having its principal place of business out of India, and its ships ordinarily engaged in seagoing traffic out of Indian waters ; or

(*e*) any income derived from property solely employed for religious or public charitable purposes ; or

(*f*) any income which a person enjoys as a member of a company, or of a firm or of a Hindu undivided family when the company or the firm or the family is liable to the tax ; or,

(*g*) subject to any conditions and restrictions which may be prescribed in this behalf, such portion, not exceeding one-sixth, of the income in respect whereof a person would, but for this exception, be chargeable under this Act, as is deducted from the salary of the person under the authority or with the permission of the Government for the purpose of securing a deferred annuity to him or a provision to his wife or children after his death, or is paid by the person to an insurance company in respect of an insurance or deferred annuity on his own life or on the life of his wife ; or

(*h*) any interest on stock-notes ; or

(*i*) the salary of any officer, warrant-officer, non-commissioned officer, or private of Her Majesty's Forces or of Her Majesty's Indian Forces, who is not in an employment which, according to the ordinary practice, is held indifferently by military persons and civilians, and whose salary does not exceed five hundred rupees per mensem ; or

(*j*) any person whose income from all sources is less than five hundred rupees per annum.

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(2) An officer or servant is not exempt from taxation under this Act by reason only of the income of his employer being exempt therefrom under this section.

Power to make exemptions.

6. The Governor-General in Council may, by notification in the *Gazette of India*, exempt from liability to the tax the whole or any part of the income of any class or tribe, or of any persons residing in any specified area, and may, by a like notification, revoke the exemption.

CHAPTER III.

ASSESSMENT AND COLLECTION.

A.—Salaries and Pensions.

Mode of payment in case of Government officials and pensioners.

7. In the case of a person receiving any salary, annuity, pension, or gratuity from the Government, any sum payable to him by the Government in respect of the salary, annuity, pension, or gratuity, shall be reduced by the amount of the tax to which he is liable under Part I. in respect thereof.

Mode of payment in case of servants and pensioners of local authorities.

8. (1) In the case of a person receiving any salary, annuity, pension, or gratuity from a local authority, the tax to which he is liable under Part I. shall, at the time of the payment to him of any of the salary, annuity, pension, or gratuity, be deducted therefrom by the officer whose duty it is to make the payment, and be paid by that officer within the prescribed time to the credit of the Government of India or as the Governor-General in Council directs.

(2) If that officer does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(3) If, when any payment is made, the tax is, from any cause, not deducted, it may, and on the requisition of the Collector shall, be deducted when any salary, annuity, pension, or gratuity, is subsequently paid to the person liable to the tax.

(4) The power to deduct under this section shall be without prejudice to any other mode of recovery.

Mode of payment in case of servants and pensioners of companies and private employers.

9. (1) The tax to which a person receiving any salary, annuity, pension, or gratuity from a company, or from any other public body or association not being a local authority or company, or from a private employer, is liable under Part I., shall be payable by him at the time when any portion of the salary, annuity, pension, or gratuity, is paid to him.

(2) The Collector may, subject to such conditions as may be prescribed, enter into an arrangement with any company, or any such body or association as aforesaid, or any private employer, with respect to the recovery on behalf of the Government by the company, body, association, or employer of the tax to which any person receiving any salary, annuity pension, or gratuity from the company, body, association, or employer, is liable under Part I.

Annual return by principal officer of company or association.

10. The principal officer of every local authority, and of every company, and of every other public body or association not being a local authority or company, shall prepare, and, on or before the fifteenth day of April in each

year, deliver or cause to be delivered to the Collector, in the prescribed form, a return in writing showing—

(*a*) the name of every person who is receiving at the date of the return any salary, annuity, or pension, or has received, during the year ending on that date, any gratuity, from the authority, company, body, or association, as the case may be, and the address of every such person, so far as it is known; and

(*b*) the amount of the salary, annuity, pension, or gratuity so received by each such person, and the time at which the same becomes payable or, in the case of a gratuity, was paid.

B.—PROFITS OF COMPANIES.

Annual statement of nett profits.

11. The principal officer in British India of every company shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, a statement in writing signed by him of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then of the nett profits so made during the year ending on the said thirty-first day of March.

Power to require officers of companies to produce accounts.

12. (1) If the Collector has reason to believe that a statement delivered under section 11 is incorrect or incomplete, he may cause to be served on the principal officer of the company a notice requiring him, on or before a date to be therein mentioned, either to attend at the Collector's office and produce, or to cause to be there produced, for the inspection of the Collector, such of the accounts of the company as refer to the year to which the statement relates, and as are in his possession or power.

(2) On the day specified in the notice, or as soon afterwards as may be, the Collector shall, by an order in writing, determine the amount at which the company shall be assessed under Part II., and the time when the amount shall be paid, and, subject to the provisions of this Act, that amount shall be payable accordingly.

C.—INTEREST ON SECURITIES.

Mode of payment of tax on interest on securities.

13. (1) The tax payable under Part III. in respect of the interest on any of the securities mentioned in that Part shall, at the time when and place where any of the interest is paid, be deducted therefrom by the person empowered to pay the interest, and be paid by that person within the prescribed time to the credit of the Government of India or as the Governor-General in Council directs.

(2) If that person does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

D.—OTHER SOURCES OF INCOME.

Ordinary Mode of Assessment and Collection.

Collector to determine persons chargeable.

14. The Collector shall, from time to time, determine what persons are chargeable under Part IV., and the amount at which every person so chargeable shall be assessed.

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Mode of making assessment.

15. (1) The assessment shall be made upon the income accruing to the person during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then upon the income accruing to him during the year ending on the said thirty-first day of March.

(2) In the case of a person for the first time becoming chargeable under Part IV. within the year for which the assessment is to be made, or within the year next before that year, the assessment shall be made according to an average of his income for such period as the Collector, having regard to the circumstances, directs.

List of incomes under two thousand rupees.

16. (1) The Collector shall in each year prepare a list of the persons chargeable under Part IV. whose annual income does not, in his opinion, amount to two thousand rupees.

(2) The list shall be in the prescribed language or languages, and shall state in respect of every such person the following particulars, namely :—

(*a*) his name, and the source or sources of the income in respect of which he is chargeable;

(*b*) the year or portion of the year for which the tax is to be paid;

(*c*) the place or places, district or districts, where the income accrues;

(*d*) the amount to be paid; and

(*e*) the place where, and the person to whom, the amount is to be paid.

(3) The list shall be filed in the office of the Collector, with a notification prefixed thereto, requiring every person mentioned in the list to pay, within sixty days from a date specified in the notification, the amount stated in the list as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

(4) The list so filed shall be open to inspection at all reasonable times without any payment.

(5) The list, or such part or parts thereof as the Collector thinks fit, with the notification prefixed thereto, shall be further published in such manner as the Local Government may consider to be best adapted for giving information to all persons concerned.

(6) The list to be prepared in each year may be the list of the previous year with such amendments as the Collector finds to be necessary.

Notices to persons with incomes of two thousand rupees and upwards.

17. In the case of a person chargeable under Part IV. whose annual income is, in the Collector's opinion, two thousand rupees or upwards, the Collector shall cause a notice to be served on him, stating the particulars (*a*) to (*e*), both inclusive, mentioned in section 16, sub-section (2), and requiring him to pay, within sixty days from a date specified in the notice, the amount stated therein as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

Power to modify ordinary procedure in special cases.

18. (1) Notwithstanding anything contained in section 16 or section 17, the Local Government may make rules—

(*a*) authorising or directing a Collector in specified cases, or classes of cases, to include in a list under section 16 any person who is liable to be served with a notice under section 17 instead of or in addition to serving him with such a notice, and to serve a notice under section 17 on any

person liable to be included in a list under section 16 instead of or in addition to including him in such a list;

(*b*) authorising the Collector in any specified town or place to cause a general notice to be published, inviting every person chargeable under Part IV. to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form published with the notice, of his income during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then of his income during the year ending on the said thirty-first day of March;

(*c*) authorising the Collector in any presidency-town to cause a special notice to be served on any person chargeable under Part IV., inviting him to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form accompanying the notice, of his income computed in the manner described in clause (*b*) of this sub-section.

(2) A return delivered under rules made under clause (*b*) or clause (*c*) of sub-section (1) must state the period during which the income has actually accrued; and there must be added at the foot thereof a declaration that the income shown in the return is truly estimated on all the sources therein mentioned, that it has actually accrued within the period therein stated, and that the person making the return has no other source of income.

(3) When a Collector authorised in that behalf by rules made under clause (*b*) or clause (*c*) of sub-section (1) has caused a notice to be published or served under those rules, he shall not include any person to whom the notice applies in any list made under section 16, or serve a notice on him under section 17, until the time specified in the notice published or served under those rules has expired.

(4) Rules made under this section shall be published in the official Gazette.

Time and place of payment.

19. Every amount specified as payable in a list or notice prepared or served under section 16 or section 17 shall be paid within the time, at the place, and to the person, mentioned in the list or notice.

Trustees, Agents, Managers, and Incapacitated Persons.

Trustees, guardians, and committees of incapacitated persons to be charged.

20. A person being the trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic, or idiot, and having the control of the property of the infant, married woman, lunatic, or idiot, whether the infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic, or idiot is chargeable under Part IV., be chargeable under that Part in like manner and to the same amount as the infant would be chargeable if he were of full age, or the married woman if she were sole, or the lunatic or idiot if he were capable of acting for himself.

Non-residents to be charged in names of their agents.

21. Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under Part IV., shall be chargeable under that Part in the name of the agent in the like manner and to the like amount as he would be chargeable if he were resident in British India and in direct receipt of that income.

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Receivers, managers, Courts of Wards, Administrators-General, and Official Trustees.

22. Receivers or managers appointed by any Court in India, the Courts of Wards, the Administrators-General of Bengal, Madras, and Bombay, and the Official Trustees, shall be chargeable under Part IV. in respect of all income officially in their possession or under their control which is liable to assessment under that Part.

Power to retain duties charged on trustees, &c.

23. When a trustee, guardian, curator, committee, or agent, is, as such, assessed under Part IV.,

or when a receiver or manager appointed as aforesaid, a Court of Wards, an Administrator-General, or an Official Trustee, is assessed under that Part in respect of income officially received,

the person or Court so assessed may, from time to time, out of the money coming to his or its possession as trustee, guardian, curator, committee, or agent, or as receiver, manager, Court of Wards, Administrator-General, or Official Trustee, retain so much as is sufficient to pay the amount of the assessment.

Occupying Owners.

Provisions for tax on occupying owners.

24. (1) Where a building is occupied by its owner, it shall be deemed a source of income within the meaning of this Act, and, if liable to be assessed under this Act, shall be assessed at five-sixths of the gross annual rent at which it may reasonably be expected to let, and, in the case of a dwelling-house, may be expected to let unfurnished.

(2) "Owner," as used in this section with reference to a building, means the person who would be entitled to receive the rent of the building if the building were let to a tenant.

CHAPTER IV.

REVISION OF ASSESSMENT.

Petition to Collector against assessment under Part IV.

25. (1) Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under Part IV., may apply by petition to the Collector to have the assessment reduced or cancelled.

(2) The petition shall ordinarily be presented within the period specified in the notification prefixed to the list filed under section 16, or in the notice served under section 17, as the case may be. But the Collector may receive a petition after the expiration of that period if he is satisfied that the objector had sufficient cause for not presenting it within that period.

(3) The petition shall, as nearly as circumstances admit, be in the form contained in the third schedule to this Act, and the statements contained in the petition shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints.

Hearing of petition.

26. The Collector shall fix a day and place for the hearing of the petition, and on the day and at the place so fixed, or on the day and at the place, if any, to which he has adjourned the hearing, shall hear the petition, and pass such order thereon as he thinks fit.

Petition to Commissioner for revision.

27. Subject to the control of the Local Government, the Commissioner of the Division, on the petition of any person deeming himself aggrieved by an order under section 12, sub-section (2), or section 26, shall, if the amount of the assessment

to which the petition relates is two hundred and fifty rupees or upwards, and may in his discretion, if the amount of the assessment is less than two hundred and fifty rupees, call for the record of the case, and pass such order thereon as he thinks fit.

Power to summon witnesses, &c.

28. The Collector or Commissioner may, for the purpose of enabling him to determine how the petitioner or the company which he represents should be assessed, summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure:

Provided that the Collector or Commissioner shall not call for any evidence except at the instance of the petitioner or in order to ascertain the correctness of facts alleged by him.

CHAPTER V.

RECOVERY OF ARREARS OF TAX.

Tax when payable.

29. The tax chargeable under this Act shall be payable at the time appointed in that behalf in or under this Act, or, if a time is not so appointed, then on the first day of June in each year.

Mode and time of recovery.

30. (1) In any case of default under this Act, the Collector, in his discretion, may recover a sum not exceeding double the amount of the tax either as if it were an arrear of land-revenue or by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the territories administered by the Local Government to which he is subordinate, or may pass an order that a sum not exceeding double that amount shall be recovered from the defaulter:

Provided that, where a person has presented a petition under section 25, such sum shall not be recoverable from him unless, within thirty days from the passing of the order on the petition, he fails to pay the amount, if any, required by that order.

(2) The Local Government may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (1) for the recovery of the tax chargeable under this Act.

(3) An order passed by the Collector under sub-section (1) shall have the force of a decree of a Civil Court in a suit in which the Government is the plaintiff and the defaulter is the defendant; and the order may be enforced in manner provided by the Code of Civil Procedure for the enforcement of decrees for money; and the procedure under the said Code in respect of the following matters, namely,—

(*a*) sales in execution of decrees,

(*b*) arrest in execution of decrees for money,

(*c*) execution of decrees by imprisonment,

(*d*) claims to attached property, and

(*e*) execution of decrees out of the jurisdiction of the Courts by which they were passed,

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shall apply to every execution issued for levying the sum mentioned in the order; save that all the powers and duties conferred and imposed by the said Code upon the Court shall be exercised and discharged by the Collector by whom the order has been made or to whom a copy thereof has been sent for execution according to the provisions of the said Code, sections 223 and 224.

(4) The Local Government may direct, with respect to any specified area, that the tax chargeable under this Act shall be recovered therein with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(5) No proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of three months from the last day of the year in respect of which the sum is payable.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Composition.

Agreements for composition.

31. (1) If a company or person desires to compound for the tax assessable under Part II. or Part IV. as the case may be, the Collector may, subject to such rules as may be prescribed in this behalf, agree with the company or person for a composition for the tax on such terms and for such period as he thinks fit.

(2) The agreement shall provide for the payment, in each year of the period comprised in the agreement, of the amount of the composition; and that amount shall be recoverable in the same manner and by the same means as any other assessment made under Part II. or Part IV. as the case may be.

Receipts.

Receipts and their contents.

32. When any money is paid under this Act to the Collector, or is recovered thereunder by him, he shall give a receipt for the same, specifying—

(*a*) the date of the payment or recovery of the money;

(*b*) the amount paid or recovered;

(*c*) the person who was liable to the tax, and the source or sources of income in respect of which the tax was payable;

(*d*) the year or part of the year for which the tax was payable;

(*e*) the place or places, district or districts, where the income accrues; and

(*f*) such other particulars, if any, as may be prescribed.

Amendment of Assessment.

Amendment of assessment.

33. If a company or person assessed under Part II. or Part IV. ceases to carry on the trade or business in respect whereof the assessment was made, or if any such person dies or becomes insolvent before the end of the year for which the assessment was made, or if any such company or person is, from any other specific cause, deprived of or loses the income on which the assessment was made, then the company or person, or its or his representative in interest, may apply to the Collector during or within three months after the end of the year, and the Collector, on proof to his satisfaction of any such cause as aforesaid, shall amend the assessment as the case may require, and refund such sum, if any, as has been overpaid.

Penalties.

Failure to make payments or deliver returns or statements.

34. (1) If a person fails—

(*a*) to deduct and pay any tax as required by section 8, sub-secion (1), or section 13, sub-section (1), or

(*b*) to deliver or cause to be delivered to the Collector in due time the return or statement mentioned in section 10 or section 11, or

(*c*) to produce, or cause to be produced, on or before the date mentioned in a notice under section 12, such accounts as are referred to in the notice,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

(2) The Commissioner of the Division may remit wholly or in part any fine imposed under this section.

False statement in declaration.

35. If a person makes a statement in a declaration mentioned in section 18, sub-section (2), which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

Prosecution to be at instance of Collector.

36. A person shall not be proceeded against for an offence under section 34 or section 35, except at the instance of the Collector.

Sections 193 and 228 of Penal Code to apply to proceedings.

37. Any proceeding under section 12 or Chapter IV. of this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code.

Power to make Rules.

Power to make rules.

38. (1) The Governor-General in Council may make rules consistent with this Act for ascertaining and determining income liable to assessment, for preventing the disclosure of particulars contained in documents delivered or produced with respect to assessments under Part IV., and generally for carrying out the purposes of this Act, and may delegate to a Local Government the power to make such rules so far as regards the territories subject to that Government.

(2) In making a rule for preventing the disclosure of any particulars referred to in sub-section (1), the Governor-General in Council may direct that a public servant committing a breach of the rule shall be deemed to have committed an offence under section 166 of the Indian Penal Code.

(3) But a person committing any such offence shall not be liable to be prosecuted therefor without the previous sanction of the Local Government.

(4) Rules made under this section shall be published in the official Gazette.

Miscellaneous.

Bar of suits in Civil Court.

39. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

Exercise of powers of Collector and Commissioner.

40. All or any of the powers and duties conferred and imposed by this Act on a Collector or on a Commissioner of Division may be exercised and performed by such other officer or person as the Local Government appoints in this behalf.

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Obligation to furnish information respecting lodgers and employés.

41. An officer or person exercising all or any of the powers of a Collector under this Act may, by notice, require any person to furnish a list, in the prescribed form, containing, to the best of his belief,—

(a) the name of every inmate or lodger resident in any house used by him as a dwelling-house or let by him in lodgings;

(b) the name of every other person receiving salary or emoluments amounting to forty-one rupees ten annas and eight pies per mensem, or five hundred rupees per annum, or upwards, employed in his service, whether resident in any such house as aforesaid or not; and

(c) the place of residence of such of those persons as are not resident in any such house, and of any inmate or lodger in any such house who has a place of residence elsewhere at which he is liable under this Act to be assessed, and who desires to be assessed at that place.

Trustees and agents to furnish information as to beneficiaries and principals.

42. An officer or person exercising all or any of the powers aforesaid may, by notice, require any person whom he has reason to believe to be a trustee, guardian, curator, committee, or agent, to deliver or cause to be delivered a statement of the names of the persons for or of whom he is trustee guardian, curator, committee, or agent.

Trustees, &c., to furnish information as to income.

43. An officer or person exercising all or any of the said powers may, by notice, require a trustee, guardian, curator, committee, or agent, or a receiver or manager appointed by any Court of India, or a Court of Wards, Administrator-General, or Official Trustee, to furnish such returns of income liable to assessment under Part IV. as may be prescribed.

Obligation to furnish other information.

44. An officer or person exercising all or any of the said powers may, at the instance of any person respecting whose assessment or the amount thereof any doubt exists, require any person to furnish such information as he deems to be necessary for the purpose of ascertaining facts relevant to the assessment or its amount.

Sections 176 and 177 of Penal Code to apply to requisitions for information.

45. A person required to furnish any information under section 41, section 42, section 43, or section 44, shall be legally bound to furnish the same in such manner and within such time as may be specified in the requisition for the information.

Service of notices.

46. (1) A notice under this Act may be served on the person therein named either by a prepaid letter addressed to the person and registered under Part III. of the Indian Post Office Act, 1866, or by the delivery or tender to him of a copy of the notice.

(2) If a notice is served by registered letter, it shall be presumed to have been served at the time when the letter would be delivered in the ordinary course of post, and proof that the letter was properly addressed and put into the post shall be sufficient to raise the presumption that the notice was duly served at that time.

(3) If the notice is to be served otherwise than by registered letter, the service shall, whenever it may be practicable, be on the person named in the notice, or, in the case of a firm, on some member thereof, or, in the case of a Hindu undivided family, on the manager of the joint estate of the family.

(4) But when the person, member, or manager, cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving-officer shall fix the copy of the notice on the outer door of the house in which the person, firm, or family therein named, ordinarily resides or carries on business.

Power to declare principal place of business or residence.

47. (1) When a company or firm has several places of business in territories subject to different Local Governments, the Governor-General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be the principal place of business.

(2) When a company or firm has several places of business in the territories subject to a single Local Government, that Government may declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

(3) When a person has several places of residence in territories subject to different Local Governments, the Governor-General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(4) When a person has several places of residence in the territories subject to a single Local Government, that Government may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(5) The powers given by this section may be delegated to, and exercised by, such officers as the Governor-General in Council or the Local Government, as the case may be, appoints in this behalf.

Saving in favour of payers of pándharí and capitation taxes.

48. Where a person is in respect of any period liable to the tax under this Act he shall not in respect of that period be assessed to the pándharí-tax levied in the Central Provinces under Act XIV. of 1867, or to the capitation-tax, or the land-rate in lieu thereof, levied in British Burma under the Burma Land and Revenue Act, 1876.

Indemnity.

49. Every person deducting, retaining, or paying any tax in pursuance of this Act or of any arrangement under section 9, sub-section (2), in respect of income belonging to another person, is hereby indemnified for the deduction, retention, or payment thereof.

Powers exercisable from time to time.

50. All powers conferred by, or conferable under, this Act may be exercised from time to time as occasion requires.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
Act No. II. of 1878...	The Northern India License Act, 1878.	So much as has not been repealed.
Act No. VI. of 1880...	The Indian License Acts Amendment Act, 1880.	The whole.

ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
Act No. III. of 1878.	The Madras License Act, 1878 ...	So much as has not been repealed.
Act No. III. of 1880.	An Act to amend Madras Act III. of 1878 as amended by Act VI. of 1880.	The whole.

ACT OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
Act No. III. of 1878.	The Bombay License Act, 1878 ...	So much as has not been repealed.

ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
Act No. II. of 1880...	The Bengal License Act, 1880 ...	The whole.

THE SECOND SCHEDULE.

SOURCES OF INCOME AND RATES OF TAX.

(*See section 4.*)

FIRST COLUMN.	SECOND COLUMN.
Source of Income.	Rate of Tax.

PART I.

SALARIES AND PENSIONS.

1. Any salary, annuity, pension, or gratuity paid in British India to or on behalf of any person residing in British India or serving on board a ship plying to or from British Indian ports, whether on account of himself or another person. 2. Any salary, annuity, pension, or gratuity paid by the Government, or by a local authority established in the exercise of the powers of the Governor-General in Council in that behalf, to or on behalf of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty.	(*a*) If the income amounts to Rs. 2,000 per annum, or Rs. 166-10-8 per mensem, or upwards—five pies in the rupee. (*b*) If the income is less than Rs. 2,000 per annum, or Rs. 166-10-8 per mensem—four pies in the rupee.

PART II.

PROFITS OF COMPANIES.

Profits of a company	Five pies in the rupee on the whole of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then on the whole of the nett profits so made during the year ending on the said thirty-first day of March.

THE SECOND SCHEDULE—*continued.*

FIRST COLUMN.	SECOND COLUMN.
Source of Income.	Rate of Tax.

PART III.

INTEREST ON SECURITIES.

Interest becoming due on or after the first day of April, 1886, and payable in British India, on— (*a*) promissory notes, debentures, stock, or other securities of the Government of India (including securities of the Government of India whereon interest is payable out of British India by draft on any place in British India), or (*b*) bonds or debentures charged by the Imperial Parliament on the revenues of India, or (*c*) debentures or other securities for money issued by or on behalf of a local authority or company.	Five pies in the rupee on such interest, unless the owner of the security produces a certificate signed by the Collector that his annual income from all sources is less than Rs. 500, in which case no deduction shall be made from the interest, or unless he produces a like certificate that his income from all sources is less than Rs. 2,000, in which case the rate shall be four pies in the rupee.

PART IV.

OTHER SOURCES OF INCOME.

FIRST COLUMN.	SECOND COLUMN.
Source of Income.	Rate of Tax.
Any source of income not included in Part I., Part II., or Part III. of this schedule.	(*a*) If the annual income is assessed at— not less than Rs. 500 but less than Rs. 750 the tax shall be Rs. 10 " " " 750 " " 1,000 " " 15 " " " 1,000 " " 1,250 " " 20 " " " 1,250 " " 1,500 " " 28 " " " 1,500 " " 1,750 " " 35 " " " 1,750 " " 2,000 " " 42 (*b*) If the annual income is assessed at Rs. 2,000 or upwards—five pies in the rupee on the income.

THE THIRD SCHEDULE.

Form of Petition.

(See section 25.)

To the Collector of

The *day of* *188* .

The petition of *A. B.* of

Sheweth as follows—

1.—Under Act No. II. of 1886, your petitioner has been assessed in the sum of rupees for the year commencing the first day of April, 188 .

2.—Your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other source or sources of income or profits, and the place or places at which such income or profits accrues or arise*] for the year ending the day of last were rupees [as will appear from the documents of which a list is presented herewith.*]

3.—Such income and profits actually accrued and arose during a period of months and days [*here state the exact number of months and days in which the income and profits accrued and arose*].

4.—During the said year your petitioner had no other income or profits.

Your petitioner therefore prays that he may be assessed accordingly [*or* that he may be declared not to be chargeable under the said Act].

(Signed) *A. B.*

Form of Verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) *A. B.*

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* These words are to be inserted if the petitioner relies on documents. The list, if the petitioner so wishes, may be presented in a sealed envelope.

ACT NO. III. OF 1886.

Received the G.-G.'s Assent on the 29th January 1886.

An Act to amend the Northern India Ferries Act, 1878.

Whereas it is expedient to amend the Northern India Ferries Act, 1878 ; It is hereby enacted as follows :—

Substitution of new section for section 8, and amendment of sections 12 and 15.

1. (1) For section 8 the following shall be substituted, namely :—

" 8. The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years with the approval of the Commissioner, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the Local Government.

" The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 or

1886. — Act 4.

section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

"When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction."

(2) For section 12, clause (*b*), the following shall be substituted, namely :—

"(*b*) for regulating the time and manner at and in which, and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted."

(3) In the third paragraph of section 15, for the word "auction" the word "lease" shall be substituted.

Amendment of section 13, and substitution of new section for section 26.

2. (1) For the first paragraph of section 13 the following shall be substituted, namely :—

"Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain, or work a ferry to or from any point within a distance of two miles from the limits of a public ferry."

(2) In the second proviso to the said section, after the word "boats" the words "which do not ply for hire or" shall be inserted.

(3) For section 26 the following shall be substituted, namely :—

Penalty for maintaining private ferry within prohibited limits.

"26. Whoever establishes, maintains, or works a ferry in contravention of the provisions of section 13, shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions."

ACT NO. IV. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH JANUARY 1886.

An Act to amend section 265 of the Indian Contract Act, 1872.

WHEREAS it is expedient to amend section 265 of the Indian Contract Act, 1872 ; It is hereby enacted as follows :—

New section substituted for section 265, Indian Contract Act.

1. For section 265 of the said Act the following shall be substituted, namely :—

Winding up by Court on dissolution or after termination.

"265. Where a partner is entitled to claim a dissolution of partnership, or where a partnership has terminated, the Court may, in the absence of any contract to the contrary, wind up the business of the partnership, provide for the payment of its debts, and distribute the surplus according to the shares of the partners respectively."

Repeal of part of section 213, Act XIV., 1882.

2. In section 213 of the Code of Civil Procedure the words and figures from and including the word "applications" to the end of the section are hereby repealed.

ACT NO. V. OF 1886.

RECEIVED THE G.-G's ASSENT ON THE 29TH JANUARY 1886.

An Act to declare and amend the law relating to the Stone Mahál in the District of Mirzapur in the North-Western Provinces.

WHEREAS it is expedient to declare and amend the law relating to the Stone Mahál in the district of Mirzapur in the North-Western Provinces; It is hereby enacted as follows:—

Preliminary.

Short title and commencement.

1. (1) This Act may be called the Mirzapur Stone Mahál Act, 1886; and

(2) It shall come into force on such day as the Local Government, by notification in the official Gazette, appoints.

(3) The power conferred by this Act on the Local Government to make rules may be exercised at any time after the passing of this Act; but a rule so made shall not take effect until the Act comes into force.

Repeal.

2. On and from the day on which this Act comes into force, Bengal Regulation II. of 1800 (*a Regulation for laying open to public use the stone-quarries at Chunar, Gházipur* [properly called Gházipur] *and Mirzapur, in the Province of Benares, subject to a fixed duty*) shall be repealed.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "the district" means the whole of the area comprised in the district of Mirzapur as constituted at the time of the passing of this Act, except the lands described in the schedule to this Act:

(2) "Collector" means the Collector of the Mirzapur district, and includes an Assistant Collector of the first class empowered by him to perform any of the functions of the Collector under this Act:

(3) "Commissioner" means the Commissioner of the Benares Division:

(4) "Board" means the Board of Revenue of the North-Western Provinces:

(5) "quarry" means to take from the surface as well as to extract from a quarry:

(6) "transport" means to remove from one place to another within the district:

(7) "proprietor" includes an assignee of land-revenue and any person claiming under a proprietor or exercising any of the rights of a proprietor.

Rights of the Government and the Public.

Right of the Government to levy duty.

4. The Government is entitled to levy duty on all stone quarried in the district.

Prohibition of levy of duty by proprietors.

5. No proprietor of any land in any part of the district is entitled to impose any prohibition or restriction, or to demand or receive any sum by way of rent, premium, duty, or price, in respect of the opening of a quarry, or the quarrying of stone, in the land, or in respect of the storing of stone at the quarry or the transport of stone over the land, or, save as may be provided by rules made under this Act, to receive from any person any compensation whatever in respect of any of the matters aforesaid.

1886. Act 5.

Right of the public to quarry stone.

6. (1) Subject to the rules made under this Act, any person is entitled to open a quarry, or quarry stone, in any land in any part of the district, and to store the stone at the quarry, and to transport it over any land.

(2) A person may, so far as the rules made under this Act permit, acquire an exclusive right to open a quarry, or quarry stone, within certain local limits in any part of the district, and may retain the right so long as those rules permit.

(3) If a dispute as to the right referred to in sub-section (1), to open a quarry, or quarry stone, in any land, or as to the existence of or mode of exercising an exclusive right referred to in sub-section (2), to open a quarry, or quarry stone, within certain local limits, arises between any persons, or if a dispute as to the right to store stone on, or transport stone over, any land arises between the person claiming to store or transport the stone, and the proprietor of the land, it shall, on application for that purpose by either of the disputing parties to the Collector, be decided by him.

(4) A Civil Court shall not take cognizance of any such dispute, or in any suit or proceeding whatever make any decree or order whereby any party to the dispute may be bound with respect to the subject-matter thereof either directly or indirectly.

Rules.

Power to make rules.

7. (1) The Local Government may, from time to time, make rules consistent with this Act to regulate within the whole or any specified part of the district all or any of the following matters:—

(*a*) the quarrying of stone, and the places where stone may be quarried;

(*b*) conflicting claims to exercise the right of opening a quarry or quarrying stone;

(*c*) the conditions on the fulfilment of which a person is to acquire an exclusive right of opening a quarry, or quarrying stone, within certain local limits, and how that right may cease to exist;

(*d*) the compensation to be paid for injury caused to crops or arable land by the quarrying, storing, or transport of stone, and the authority by which the compensation is to be determined;

(*e*) the transport of stone;

(*f*) the storing of stone;

(*g*) the classification of stones, the rate or rates of duty to be paid in respect of each class of stone to the Government or to a farmer to whom the Government has leased the duties leviable thereon, and the time when, the place where, and the persons by whom, the duty is to be paid;

(*h*) the exemptions from, or reductions of, duty to be allowed, the conditions to attach to those exemptions or reductions, and the consequences to ensue on the breach of any of those conditions;

(*i*) the custody and disposal of stone confiscated or seized under this Act; and

(*j*) generally for carrying out the purposes of this Act.

(2) In making a rule under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the first during which the breach continues.

Procedure for making rules.

8. (1) The Local Government shall, before making any rules under section 7, publish a draft of the proposed rules for the information of persons interested.

(2) The publication shall be made in such manner as in the opinion of the Local Government is sufficient.

(3) A notice shall be published with the draft specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall, before making the rules, receive and consider any objection or suggestion which is made by any person with respect to the draft before the date so specified.

Publication of rules.

9. Every rule made under section 7 shall be published in the official Gazette in English and in such other language or languages as the Local Government directs, and that publication shall be conclusive proof that the rule has been made as required by section 8.

Deferred operation of rules altering duty.

10. If a rule made under section 7, sub-section (1), clause (*g*), alters the rate of duty to be paid in respect of any class of stone, it shall not have effect till the expiration of one year from the date on which it is published.

Offences.

Penalties for evasion of duty.

11. If any person evades, or attempts to evade, or abets the evasion of, the payment of any duty payable under a rule made under section 7, sub-section (1), clause (*g*), he shall be punished with fine which may extend to two hundred rupees and twenty times the duty payable on the stone in respect of which the offence was committed, and the Court convicting him may further order the confiscation of the stone.

Burden of proof as to payment of duty.

12. The burden of proving that duty has been paid on stone in respect of which a prosecution for an offence under section 11 has been instituted shall lie on the accused person.

Limitation for prosecutions.

13. A prosecution for an offence under section 11 or against a rule made under section 7 shall not be instituted after the expiration of six months from the commission of the offence.

Saving of prosecutions under other laws.

14. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under section 11 or against a rule made under section 7, or from being liable under that other law to any other or higher punishment or penalty than that provided by section 11 or a rule made under section 7:

Provided that a person shall not be punished twice for the same offence.

Arrest, Seizure, and Search.

Powers of officers.

15. (1) Any officer whom the Collector, with the previous sanction of the Commissioner, may empower in this behalf, may—

(*a*) proceed, in respect of an offence under section 11 or against a rule made under section 7 which in his presence a person commits, or is accused of committing, in the same manner as a police-officer may proceed, under section 57 of the Code of Criminal Procedure, 1882, in respect of a non-cognizable offence which in his presence a person commits or is accused of committing; and

1886.

Act 5.

(b) seize any stone in respect of which he has reason to believe that an offence under section 11 or against a rule made under section 7 has been committed, and, if the stone is being transported, use, for the removal thereof to the nearest place appointed for the custody of stone seized under this Act, any animals and conveyances used in transporting it.

(2) The powers conferred by this section may be exercised as well beyond as within the limits of the district, and if in the exercise of those powers a person is arrested or stone is seized beyond those limits, then, notwithstanding anything in this Act, the person arrested shall be liable to be dealt with, and the stone seized to be disposed of, in the same manner as if he had been arrested, or it had been seized, within those limits.

Search-warrants.

16. (1) A Magistrate may issue his warrant for the search, after sunrise and before sunset, of any building, vessel, or place in which he has reason to believe that stone in respect of which an offence under section 11 or against a rule made under section 7 has been committed is kept or concealed, and for the seizure of any stone found there.

(2) The provisions of the Code of Criminal Procedure, 1882, relating to searches under that Code, shall, so far as the same are applicable, apply to searches under this section.

Recovery of Duty.

Recovery of duty.

17. An arrear of duty payable to the Government under a rule made under section 7, sub-section (1), clause (g), and an arrear due from a farmer of duties payable on stone, may be recovered from the person primarily liable to pay the same to the Government, or from his surety (if any), as if it were an arrear of land-revenue.

Appeal and Revision.

Appeal and revision.

18. (1) Decisions and orders passed under this Act, or any rule thereunder by an Assistant Collector, whether as Collector or otherwise, shall be appealable to the Collector of the Mirzapur district in the manner provided by the law for the time being in force in the district respecting appeals from the orders of an Assistant Collector to the Collector in matters pertaining to land-revenue.

(2) Decisions and orders passed by the Collector of the Mirzapur district under this Act, or any rule thereunder, shall be appealable to the Commissioner in the manner provided by the law aforesaid respecting appeals from the orders of the Collector to the Commissioner.

(3) The Board may revise any decision or order passed under this Act, or any rule thereunder by an Assistant Collector, whether as Collector or otherwise, or by the Collector of the Mirzapur district, or under sub-section (2) by the Commissioner.

Miscellaneous.

Saving of existing rates of duty.

19. The rates of duty actually levied at the time of the passing of this Act shall continue to be levied until the Act comes into force, and shall then be deemed to have been prescribed by a rule made under section 7, sub-section (1), clause (g).

Exemption of the inhabitants of the hills.

20. (1) Notwithstanding anything hereinbefore contained, but subject to any rules which the Local Government may from time to time make to regulate the enjoyment of the privilege hereby conferred, the inhabitants of the tract south of the Vindhya

range of hills, shall be exempt from the payment of duty on stones quarried by them within the limits of that tract for their own use within those limits

(2) The Local Government may, from time to time, by notification in the official Gazette, define the limits of the said tract for the purposes of this section.

THE SCHEDULE.

LANDS EXCLUDED FROM THE AREA COMPRISED IN THE DISTRICT OF MIRZAPUR.

(*See section 3, sub-section (1).*)

Pargana or tappá.	Village.	Remarks.
Kantit ...	Bajtha	These villages were transferred from the Allahabad district in 1840.
	Baghaura Rajman	
	Pálí	
	Sumatia	
	Barha Khurd	
	Basaura	
	Chak Kothara	
	Chak Madari	
	Dogauli	
	Rasauli	
	Kothara	
	Ghunghuti	
	Hargarh	
Upraudh ...	Nairi Katari	Those villages were transferred from the Allahabad district in 1861.
	Durjanipur	
	Deohat	
	Mahuat	
	Maheshpur	
	Katra Lahorya Dih	
	Bhainsaur	
	Mahagarhi	

ACT NO. VI. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1886.

An Act to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths, and Marriages, and for certain other purposes.

WHEREAS it is expedient to provide for the voluntary registration of births and deaths among certain classes of persons, for the more effectual registration of those births and deaths, and of the marriages registered under Act III. of 1872, or the Indian Christian Marriage Act, 1872, and of certain marriages registered under the Parsi Marriage and Divorce Act, 1865, and for the establishment of general registry offices for keeping registers of those births, deaths, and marriages;

1886. Act 6.

And whereas it is also expedient to provide for the authentication and custody of certain existing registers made otherwise than in the performance of a duty specially enjoined by the law of the country in which the registers were kept, and to declare that copies of the entries in those registers shall be admissible in evidence;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (1) This Act may be called the Births, Deaths, and Marriages Registration Act, 1886; and

(2) It shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, directs.

(3) Any power conferred by this Act to make rules, or to issue orders, may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

Local extent.

2. This Act extends to the whole of British India, and applies also, within the dominions of Princes and States in India in alliance with Her Majesty, to British subjects in those dominions.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

"sign" includes mark, when the person making the mark is unable to write his name:

"prescribed" means prescribed by a rule made by the Governor-General in Council under this Act: and

"Registrar of Births and Deaths" means a Registrar of Births and Deaths appointed under this Act.

Saving of local laws.

4. Nothing in this Act, or in any rule made under this Act, shall affect any law heretofore or hereafter passed providing for the registration of births and deaths within particular local areas.

Powers exerciseable from time to time.

5. All powers conferred by this Act may be exercised from time to time as occasion requires.

CHAPTER II.

GENERAL REGISTRY OFFICES OF BIRTHS, DEATHS, AND MARRIAGES.

Establishment of general registry offices and appointment of Registrars-General.

6. (1) Each Local Government—

(*a*) shall establish a general registry office for keeping such certified copies of registers of births and deaths registered under this Act, or marriages registered under Act III. of 1872 (*to provide a form of marriage in certain cases*) or the Indian Christian Marriage Act, 1872, or, beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, under the Parsi Marriage and Divorce Act, 1865, as may be sent to it under this Act, or under any of the three last-mentioned Acts, as amended by this Act; and

(b) may appoint to the charge of that office an officer, to be called the Registrar-General of Births, Deaths, and Marriages, for the territories under its administration :

(2) Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor-General in Council, establish two general registry offices, and appoint two Registrars-General of Births, Deaths, and Marriages for the territories under his administration ; one of such general registry offices, and of such Registrars-General, being established and appointed for Sindh, and the other for the other territories under the administration of the Governor of Bombay in Council.

Indexes to be kept at general registry office.

7. Each Registrar-General of Births, Deaths, and Marriages, shall cause indexes of all the certified copies of registers sent to his office under this Act, or under Act III. of 1872, the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, as amended by this Act, to be made and kept in his office in the prescribed form.

Indexes to be open to inspection.

8. Subject to the payment of the prescribed fees, the indexes so made shall be at all reasonable times open to inspection by any person applying to inspect them, and copies of entries in the certified copies of the registers to which the indexes relate shall be given to all persons applying for them.

Copies of entries to be admissible in evidence.

9. A copy of an entry given under the last foregoing section shall be certified by the Registrar-General of Births, Deaths, and Marriages, or by an officer authorized in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, death, or marriage to which the entry relates.

Superintendence of Registrars by Registrar-General.

10. Each Registrar General of Births, Deaths, and Marriages, shall exercise a general superintendence over the Registrars of Births and Deaths in the territories for which he is appointed.

CHAPTER III.

Registration of Births and Deaths.

A.—Application of this Chapter.

Persons whose births and deaths are registrable.

11. (1) The persons whose births and deaths shall, in the first instance, be registrable under this chapter, are the following, namely :—

(a) in British India, the members of every race, sect, or tribe to which the Indian Succession Act, 1865, applies, and in respect of which an order under section 332 of that Act is not for the time being in force, and all persons professing the Christian religion ;

(b) in the dominions of Princes and States in India in alliance with Her Majesty, British subjects being members of a like race, sect, or tribe, or professing the Christian religion :

(2) But the Local Government, by notification in the official Gazette, may, with the previous approval of the Governor-General in Council, extend the operation of this chapter to any other class of persons either generally or in any local area.

B.—Registration Establishment.

Power for Local Government to appoint Registrars for its territories.

12. The Local Government may appoint, either by name, or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths for such local areas within the territories under its administration as it may define, and, if it sees fit, for any class of persons within any part of those territories.

Power for Governor-General in Council to appoint Registrars for Native States.

13. The Governor-General in Council may, by notification in the *Gazette of India*, appoint, either by name or by virtue of their office, so many persons as he thinks necessary to be Registrars of Births and Deaths for such local areas within the dominions of any Prince or State in India in alliance with Her Majesty as he may define, and, if he sees fit, for any class of persons within any part of those dominions.

Registrar to be deemed a public servant.

14. Every Registrar of Births and Deaths shall be deemed to be a public servant within the meaning of the Indian Penal Code.

Power to remove Registrars.

15. (1) The Local Government or the Governor-General in Council, as the case may be, may suspend, remove, or dismiss any Registrar of Births and Deaths

(2) A Registrar of Births and Deaths may resign by notifying in writing to the Local Government or to the Governor-General in Council, as the case may be, his intention to do so, and, on his resignation being accepted by the Local Government or the Governor-General in Council, he shall be deemed to have vacated his office.

Office and attendance of Registrar.

16. (1) Every Registrar of Births and Deaths shall have an office in the local area, or within the part of the territories or dominions, for which he is appointed.

(2) Every Registrar of Births and Deaths, to whom the Local Government may direct this sub-section to apply, shall attend at his office for the purpose of registering births and deaths on such days and at such hours as the Registrar-General of Births, Deaths, and Marriages, may direct, and shall cause to be placed in some conspicuous place on or near the outer door of his office his name, with the addition of Registrar of Births and Deaths for the local area or class for which he is appointed, and the days and hours of his attendance.

Absence of Registrar or vacancy in his office.

17. (1) When any Registrar of Births and Deaths to whom the Local Government may direct this section to apply, not being a Registrar of Births and Deaths for a local area in the town of Calcutta, Madras, or Bombay, is absent, or when his office is temporarily vacant, any person whom the Registrar-General of Births, Deaths, and Marriages, appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, or such other officer as the Local Government appoints in this behalf, shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(2) When any such Registrar of Births and Deaths for a local area in the town of Calcutta, Madras, or Bombay, is absent, or when his office is temporarily vacant, any person whom the Registrar-General of Births, Deaths, and Marriages, appoints in this behalf, shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(3) The Registrar-General of Births, Deaths, and Marriages, shall report to the Local Government all appointments made by him under this section.

Register books to be supplied and preservation of records to be provided for.

18. The Local Government shall supply every Registrar of Births and Deaths with a sufficient number of register-books of births and of register-books of deaths, and shall make suitable provision for the preservation of the records connected with the registration of births and deaths.

C.—Mode of Registration.

Duty of Registrar to register births and deaths of which notice is given.

19. Every Registrar of Births and Deaths, on receipt of notice of a birth or death within the local area or among the class for which he is appointed, shall, if the notice is given within the prescribed time and in the prescribed mode by a person authorized by this Act to give the notice, forthwith make an entry of the birth or death in the proper register-book :

Provided that—

(*a*) if he has reason to believe the notice to be in any respect false, he may refuse to register the birth or death until he receives an order from the Judge of the District Court directing him to make the entry and prescribing the manner in which the entry is to be made ; and

(*b*) he shall not enter in the register the name of any person as father of an illegitimate child, unless at the request of the mother and of the person acknowledging himself to be the father of the child.

Persons authorized to give notice of birth.

20. Any of the following persons may give notice of a birth, namely :—

(*a*) the father or mother of the child ;

(*b*) any person present at the birth ;

(*c*) any person occupying, at the time of the birth, any part of the house wherein the child was born, and having knowledge of the child having been born in the house ;

(*d*) any medical practitioner in attendance after the birth, and having personal knowledge of the birth having occurred ;

(*e*) any person having charge of the child.

Persons authorized to give notice of death.

21. Any of the following persons may give notice of a death, namely :—

(*a*) any relative of the deceased having knowledge of any of the particulars required to be registered concerning the death ;

(*b*) any person present at the death ;

(*c*) any person occupying, at the time of the death, any part of the house wherein the death occurred, and having knowledge of the deceased having died in the house ;

(*d*) any person in attendance during the last illness of the deceased ;

(*e*) any person who has seen the body of the deceased after death.

Entry of birth or death to be signed by person giving notice.

22. (1) When an entry of a birth or death has been made by the Registrar of Births and Deaths under section 19, the person giving notice of the birth or death must sign the entry in the register in the presence of the Registrar.

(2) Until the entry has been so signed, the birth or death shall not be deemed to be registered under this Act.

(3) When the birth of an illegitimate child is registered, and the mother and the person acknowledging himself to be the father of the child jointly

request that that person may be registered as the father, the mother and that person must both sign the entry in the register in the presence of the Registrar.

Grant of certificate of registration of birth or death.

23. The Registrar of Births and Deaths shall, on application made at the time of registering any birth or death by the person giving notice of the birth or death, and on payment by him of the prescribed fee, give to the applicant a certificate in the prescribed form, signed by the Registrar, of having registered the birth or death.

Duty of Registrars as to sending certified copies of entries in register-books to Registrar-General.

24. (1) Every Registrar of Births and Deaths in British India shall send to the Registrar-General of Births, Deaths, and Marriages for the territories within which the local area or class for which he is appointed is situate or resides, at the prescribed intervals, a true copy certified by him, in the prescribed form, of all the entries of births and deaths in the register-book kept by him since the last of those intervals :

Provided that in the case of Registrars of Births and Deaths, who are clergymen of the Churches of England, Rome, and Scotland, the Registrar may, if so directed by his ecclesiastical superior, send the certified copies in the first instance to that superior, who shall send them to the proper Registrar-General of Births, Deaths, and Marriages.

In this sub-section "Church of England" and "Church of Scotland" mean the Church of England and the Church of Scotland as by law established respectively; and "Church of Rome" means the Church which regards the Pope of Rome as its spiritual head.

(2) The provisions of sub-section (1) shall apply to every Registrar of Births and Deaths in the dominions of any Prince or State in India in alliance with Her Majesty, with this modification that the certified copies referred to in that sub-section shall be sent to such one of the Registrars-General of Births, Deaths, and Marriages as the Governor-General in Council, by notification in the *Gazette of India*, appoints in this behalf.

Searches and copies of entries in register-books.

25. (1) Every Registrar of Births and Deaths shall, on payment of the prescribed fees, at all reasonable times, allow searches to be made in the register-books kept by by him, and give a copy of any entry in the same.

(2) Every copy of an entry in a register-book given under this section shall be certified by the Registrar of Births and Deaths, and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

Exceptional provision for registration of certain births and deaths.

26. Notwithstanding anything in section 19, the Governor-General in Council may make rules authorizing Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they are appointed.

D.—Penalty for False Information.

Penalty for wilfully giving false information.

27. If any person wilfully makes, or causes to be made, for the purpose of being inserted in any register of births or deaths, any false statement in connection with any notice of a birth or death under this Act, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

E.—Correction of Errors.

Correction of entry in register of births or deaths.

28. (1) If it is proved to the satisfaction of a Registrar of Births and Deaths that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, he may, subject to such rules as may be made by the Governor-General in Council with respect to the conditions and circumstances on and in which errors may be corrected, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereto the date of the correction.

(2) If a certified copy of the entry has already been sent to the Registrar-General of Births, Deaths, and Marriages, the Registrar of Births and Deaths shall make and send a separate certified copy of the original erroneous entry, and of the marginal correction therein made.

CHAPTER IV.

Amendment of Marriage Acts.

Addition of new section after section 13, Act III. of 1872.

29. After section 13 of Act III. of 1872 (*to provide a form of marriage in certain cases*) the following section shall be inserted, namely :—

Transmission of certified copies of entries in marriage-certificate book to the Registrar-General of Births, Deaths, and Marriages.

"13A. The Registrar shall send to the Registrar-General of Births, Deaths, and Marriages for the territories within which his district is situate, at such intervals as the Governor-General in Council, from time to time, directs, a true copy certified by him, in such form as the Governor-General in Council, from time to time, prescribes, of all entries made by him in the said marriage-certificate book since the last of such intervals."

Amendment of the Indian Christian Marriage Act, 1872.

30. In the Indian Christian Marriage Act, 1872, the following amendments shall be made, namely :—

(*a*) at the end of section 3, the words "'Registrar-General of Births, Deaths, and Marriages' means a Registrar-General of Births, Deaths, and Marriages appointed under the Births, Deaths, and Marriages Registration Act, 1886," shall be added ;

(*b*) for the words "Secretary to the Local Government," wherever they occur, and for the words "Secretary to a Local Government" in section 79, the words "Registrar-General of Births, Deaths, and Marriages," shall be substituted ;

(*c*) for the words "at such places as the Local Government directs" in section 62 the words "in the office of the Registrar-General of Births, Deaths, and Marriages for the territories of the Local Government by which the person who keeps the register-book was licensed," shall be substituted ; and

(*d*) in section 81, after the words "Registrar-General of Births, Deaths, and Marriages," the words "in England" shall be added.

Addition of new section after section 8 of the Parsi Marriage and Divorce Act, 1865.

31. After section 8 of the Parsi Marriage and Divorce Act, 1865, the following section shall be inserted, namely :—

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Act 6.

Transmission of certified copies of certificates in marriage-register to Registrar-General of Births, Deaths, and Marriages.

"8A. Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall, at such intervals as the Governor-General in Council from time to time directs, send to the Registrar-General of Births, Deaths, and Marriages for the territories administered by the Local Government by which he was appointed a true copy certified by him, in such form as the Governor-General, from time to time, prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals."

CHAPTER V

SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS.

Permission to persons having custody of certain records to send them within one year to Registrar-General.

32. If any person in British India, or in the dominions of any Prince or State in India in alliance with Her Majesty, has for the time being the custody of any register or record of birth, baptism, naming, dedication, death, or burial of any persons of the classes referred to in section 11, sub-section (1), or of any register or record of marriage of any persons of the classes to which Act III. of 1872 or the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, applies, and if such register or record has been made otherwise than in performance of a duty specially enjoined by the law of the country in which the register or record was kept, he may, within one year from the date on which this Act comes into force, send the register or record to the office of the Registrar-General of Births, Deaths, and Marriages for the territories within which he resides, or, if he resides within the dominions of any such Prince or State as aforesaid, to such one of the Registrars-General as aforesaid as the Governor-General in Council, by notification in the *Gazette of India*, directs in this behalf.

Appointment of Commissioners to examine registers.

33. (1) The Governor-General in Council may appoint so many persons as he thinks fit to be Commissioners for examining the registers or records sent to the Registrar-General of Births, Deaths, and Marriages under the last foregoing section.

(2) The Commissioners so appointed shall hold office for such period as the Governor-General in Council, by the order of appointment, or any subsequent order, directs.

Duties of Commissioners.

34. (1) The Commissioners appointed under the last foregoing section shall enquire into the state, custody, and authenticity of every such register or record as may be sent to the Registrar-General of Births, Deaths, and Marriages under section 32;

and shall deliver to the Registrar-General a descriptive list or descriptive lists of all such registers or records, or portions of registers or records, as they find to be accurate and faithful.

(2) The list or lists shall contain the prescribed particulars, and refer to the registers or records, or to the portions of the registers or records, in the prescribed manner.

(3) The Commissioners shall also certify in writing, upon some part of every separate book or volume containing any such register or record, or portion of a register or record, as is referred to in any list or lists made by Commissioners, that it is one of the registers or records, or portions of registers or records, referred to in the said list or lists.

35. (1) Subject to the payment of the prescribed fees, the descriptive list or lists of registers or records, or portions of registers or records, delivered by the Commissioners to the Registrar-General of Births, Deaths, and Marriages, shall be, at all reasonable times, open to inspection by any person applying to inspect it or them, and copies of entries in those registers or records shall be given to all persons applying for them.

Searches of lists prepared by Commissioners and grant of certified copies of entries.

(2) A copy of an entry given under this section shall be certified by the Registrar-General of Births, Deaths, and Marriages, or by an officer or person authorized in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, baptism, naming, dedication, death, burial, or marriage, to which the entry relates.

CHAPTER VI.

RULES.

36. In addition to any other power to make rules impliedly or expressly conferred by this Act, the Governor-General in Council may make rules—

Power for Governor-General in Council to make rules.

(*a*) to fix the fees payable under this Act;

(*b*) to prescribe the forms required for the purposes of this Act;

(*c*) to prescribe the time within which, and the mode in which, persons authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice;

(*d*) to prescribe the registers to be kept, and the form and manner in which Registrars of Births and Deaths are to register births and deaths under this Act, and the intervals at which they are to send to the Registrar-General of Births, Deaths, and Marriages true copies of the entries of births and deaths in the registers kept by them;

(*e*) to prescribe the particulars which the descriptive list or lists to be prepared by the Commissioners appointed under Chapter V. are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records, to which they relate;

(*f*) to prescribe the custody in which those registers or records are to be kept; and

(*g*) generally to carry out the purposes of this Act.

37. (1) The Governor-General in Council shall, before making rules under this Act, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

Procedure for making and publication of rules.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor-General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under this Act shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made.

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Act 7.

ACT NO. VII. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1886.

An Act to amend the Indian Registration Act, 1877.

WHEREAS it is expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Registration Act, 1886; and

(2) It shall come into force at once.

Addition to section 17 of Act III. of 1877.

2. After clause (*f*) of section 17 of the Indian Registration Act, 1877, the following clause shall be inserted, that is to say:—

"(*ff*) any debenture issued by any such Company, and not creating, declaring, assigning, limiting, or extinguishing any right, title or interest to or in immoveable property, except in so far as it entitles the holder to the security afforded by a registered instrument, whereby the Company has mortgaged, conveyed, or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or."

Addition to sections 17 and 89, and amendment of section 58, of same Act.

3. (1) After clause (*l*) of section 17 of the same Act the following clause shall be added, that is to say:—

"(*m*) orders granting loans under the Agriculturists' Loans Act, 1884, and instruments for securing the repayment of loans made under that Act."

(2) In section 58 of the same Act, for the words "or a copy of a certificate under the Land Improvement Act, 1871, sent by the Collector to be registered," or, where the Land Improvement Loans Act, 1883, is in force, for the words "or a copy of an order under the Land Improvement Loans Act, 1883, sent by the Collector to be registered," there shall be substituted the following words, namely:—

"or a copy sent to a registering officer under section 89."

(3) After the second paragraph of section 89 of the same Act the following paragraph shall be added, that is to say:—

"Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1."

Further addition to section 17 of same Act.

4. After clause (*m*) of section 17 of the same Act as amended by this Act, the following clause shall be added, that is to say:—

"(*n*) any endorsement on a mortgage deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage."

Amendment of section 50 of same Act.

5. In the second paragraph of section 50 of the same Act, "(*ff*)" shall be inserted between "(*f*)" and "(*g*)", and for the word and letter "and (*l*)" the letters and word "(*l*), (*m*), and (*n*)" shall be substituted.

Addition to section 90, and amendment of section 91, of same Act.

6. (1) After clause (*d*) of section 90 of the same Act the following clause shall be inserted, that is to say :—

"(*e*) notices given under section 74 or section 76 of the Bombay Land-revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land."

(2) In section 91, for the word and letter "and (*c*)" the letters and word "(*c*) and (*e*)" shall be substituted.

(3) The said Act shall be construed as if the amendments made in it by this section had been made at the time the Act came into force.

ACT NO. VIII. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 8TH MARCH 1886.

An Act to amend sections 12 and 13 of the Bengal Tenancy Act, 1885.

WHEREAS it is expedient to amend sections 12 and 13 of the Bengal Tenancy Act, 1885, in maner hereinafter appearing; It is hereby enacted as follows :—

1. In section 12, sub-section (2), before the word "mortgage," the word "usufructuary" shall be inserted.

2. (1) In section 13, sub-section (1), before the words "the Court," the words "or when a mortgage of a permanent tenure, other than an usufructuary mortgage thereof, is foreclosed," shall be inserted.

(2) In the same sub-section, before the word "require," the words "or making a decree or order absolute for the foreclosure," shall be inserted.

(3) In the same sub-section, before the words, "to pay into Court," the words "or mortgagee" shall be inserted.

(4) In the same sub-section, before the words "on the landlord," the words "or final foreclosure" shall be inserted.

(5) In section 13, sub-section (2), before the words "the Court," the words "or the decree or order absolute for the foreclosure has been made," shall be inserted.

(6) In the same sub-section, before the words "in the prescribed form," the words "or final foreclosure" shall be inserted.

ACT NO. IX. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 10TH MARCH 1886.

An Act to apply the Chutia Nagpur Encumbered Estates Act, 1876, to the Deo Estate in the Gaya District.

WHEREAS Rájá Bhikam Narayan Singh Bahadur, of Deo, in the district of Gaya, is subject to, and his immoveable property is charged with, debts and liabilities other than debts due, and liabilities incurred, to the Government;

And whereas the said Rájá has requested that the provisions of the Chutia Nagpur Encumbered Estates Act, 1876, be applied to his case;

And whereas the persons to whom the debts are due and the liabilities have been incurred have assented to the application of the Chutia Nagpur

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Encumbered Estates Act, 1876, to the case, on the condition that their title to receive the principal and interest due to them be in no way impaired thereby;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Deo Estate Act, 1886; and

(2) It shall come into force at once.

Application of Act VI. of 1876 to the Deo Estate.

2. The provisions of the Chutia Nagpur Encumbered Estates Act, 1876, as amended by Act V. of 1884, may be applied to the case of the said Rájá Bhikam Narayan Singh Bahadur, subject to the following modifications, namely:—

(1) The expressions "Commissioner," "Deputy Commissioner," and "holder," where used in the said Act, shall be construed as referring to the Commissioner of the Patna division, the Collector of the Gaya district, and the said Rájá, respectively.

(2) Notwithstanding anything in section 2 of the said Act, the Commissioner may, without any further application from the said Rájá, and without any further notification of the consent of the Lieutenant-Governor of Bengal, publish an order under that section, appointing a manager, and vesting in him the management of the whole of the immoveable property of or to which the said Rájá is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him or his heir during the continuance of the management.

(3) Section 4 of the said Act shall be read as if after the words "and their families" the words "and persons entitled to receive maintenance from the property" were added.

(4) Notwithstanding anything in section 8—

the sums mentioned in column 2 and column 4 of the schedule to this Act, as principal and as balance due from the said Rájá on the thirty-first day of December, 1885, respectively,

and the rate of interest mentioned in column 3 of that schedule,

shall, save in so far as any error with respect thereto may be proved to the satisfaction of the Commissioner, be deemed to be justly due to the several persons mentioned in column 1 of the schedule.

(5) The scheme prepared and approved under section 11 of the said Act shall provide that out of the residue applicable under section 4 of that Act, after discharge of costs of management, to the settlement of debts and liabilities, interest at the rate of six per cent. per annum in respect of so much of the principal sum of six hundred and fifty thousand rupees as is for the time being due to the Mahárájá of Darbhangá shall be paid to the Mahárájá before any sum is paid thereout to any other creditor.

(6) The second clause of section 12 of the said Act shall be read as if for the words "at any time before a scheme has been approved by him under section 11" the words "at any time before the occurrence of either of the events mentioned in the first and third clauses of this section" were substituted.

(7) The power conferred on the manager by the second clause of section 16 of the said Act, to apply for the removal of a mortgagee or conditional vendee in possession, shall not be exercised.

(8) The exercise of the power of sale conferred by section 18 of the said Act shall be subject to the following conditions, namely:—

(a) that one month's notice shall be given to the Mahárájá of Darbhangá of the manager's intention to sell any property of which the said Mahárájá is mortgagee;

(b) that until the debt due to the said Mahárájá has been reduced to the sum of six hundred and fifty thousand rupees no portion of the proceeds of the sale of any of that property shall, without the previous consent of the Mahárájá, be paid to any other creditor; and

(c) that, except with the previous consent of the said Mahárájá, so much of that property shall be left unsold as will yield a yearly income sufficient, after compliance with the rest of the scheme prepared and approved under section 11 of the said Act, to meet the yearly interest for the time being payable to the Mahárájá.

(9) Section 23 of the said Act shall be read as if for the words "the Courts in Chutiá Nágpur" the words "any Court" were substituted, and as if the following words were added to the section, namely:—"and a suit relating to a claim of maintenance from the property shall not be entertained by any such Court without the previous consent of the Commissioner."

Saving of priority of Crown debts.

3. Nothing contained in this Act shall be construed as affecting the priority of any debt due, or liability incurred, to the Government.

SCHEDULE.

(*See section 2, clause 4.*)

Name of Creditor.	Principal.			Annual rate of interest per centum.	Balance due on the 31st December 1885.		
1	2			3	4		
	Rs.	A.	P.		Rs.	A.	P.
Mahárájá Lachhmeshar Singh Bahadur of Darbhangá	6,50,000	0	0	6	8,18,141	4	0
Bábú Kameshwar Prasad ...	2,89,751	12	2	6	2,85,340	2	7
Ditto	21,000	0	0	12	21,000	0	0
Ditto	9,000	0	0	12	9,000	0	0
Sayyid Lutf Ali Khan Bahadur ...	12,045	4	0	6	13,460	8	8
Nurjahan Begum	9,405	0	0	6	10,577	10	1
Gosain Dalmirpuri	5,000	0	0	6	6,535	0	0
Gosain Dalmirpuri and Bhakhi Singh	5,400	0	0	6	4,850	0	0
Bábú Ramgopal Singh and Bábú Ram Kirpal Singh	4,000	0	0	12	4,000	0	0
Ditto	3,500	0	0	12	3,500	0	0
Ditto	14,484	8	9	6	15,377	12	2
Sayyid-un-nissa Bibi	29,660	0	0	18	53,725	1	0
Bábú Baijnath Singh	13,503	13	9	12	17,996	1	10
Ditto	777	8	5	*Nil*	777	8	5
Shaikh Imáman and Ramdhan Barai	10,000	0	0	9	10,000	0	0
Bihari Lal Barik	3,300	0	0	72	6,006	0	0
Ditto	1,750	0	0	72	3,094	0	0
Lachhman Dás and Mathura Dás ...	4,998	2	6	6	4,215	14	7
Ramkishn Dás	1,195	10	0	12	1,267	5	0
Narayan Sahu, Sheo Sahu, Bhichuk Sahu and Sheocharan Sahu ...	3,500	0	0	12	3,052	12	0
Madho Singh	7,702	0	6	6	7,070	6	11
Raghubar Singh	3,000	0	0	12	2,824	2	4
Bishn Saran Lal	389	0	0	12	389	0	0
Mahárání Baliráj Kunwar ...	80,000	0	0	4½	80,000	0	0

1886.

Act 10.

ACT NO. X. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH MARCH 1886.

An Act to amend the Code of Criminal Procedure, 1882, and certain other Acts.

Whereas it is expedient to amend the Code of Criminal Procedure, 1882, and certain other Acts;
It is hereby enacted as follows:—

Code of Criminal Procedure, 1882.

Amendment of section 31 of the Code of Criminal Procedure.

1. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of imprisonment for a term exceeding four years, and any sentence of transportation," shall be substituted.

Substitution of new section for section 34.

2. For section 34 of the same Code the following shall be substituted, namely:—

Higher powers of certain District Magistrates.

"34. The Court of a District Magistrate specially empowered under section 30 may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding four years, and any sentence of transportation, shall be subject to confirmation by the Sessions Judge."

Addition to section 55 and section 56.

3. After section 55 of the same Code, and after section 56 thereof, the following shall be added, namely:—

"This section applies to the police in the towns of Calcutta and Bombay."

Amendment of sections 88 and 514.

4. In sections 88 and 514 of the same Code, after the words "District Magistrate" the words "or Chief Presidency Magistrate" shall be inserted.

Amendment of section 110.

5. In section 110 of the same Code, for the words "Sub-Divisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government," the words "or Sub-Divisional Magistrate, or a Magistrate of the first class specially empowered in this behalf by the Local Government," shall be substituted.

Amendment of section 162.

6. In section 162 of the same Code the word "shall" shall be inserted before the words "be used."

Amendment of section 173.

7. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely:—

"Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.

Amendment of section 266.

8. In section 266 of the same Code, for the word and figures "section 307" the words and figures "section 276 and 307" shall be substituted.

Amendment of section 269.

9. For the second paragraph of section 269 of the same Code the following shall be substituted, namely :—

"When the accused is charged at the same trial with several offences, of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.

Substitution of new section for section 398.

10. For section 398 of the same Code the following shall be substituted, namely :—

Provisions supplemental to sections 35, 396, and 397.

"398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

"(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is, after its execution, to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation, or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences."

Amendment of section 401.

11. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely :—

"If any condition on which a sentence has been suspended or remitted is, in the opinion of the Governor-General in Council or of the Local Government, as the case may be, not fulfilled, the Governor-General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant, and remanded to undergo the unexpired portion of the sentence."

(2) After the third paragraph of the same section the following shall be inserted, namely :—

"The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will."

New sections to follow section 475.

12. After section 475 of the same Code the following sections shall be inserted, namely :—

Power of Governor-General in Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.

"475A. The Governor-General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail, or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail, or other place of safe custody in British India.

Power of Local Government to relieve Inspector-General of certain functions.

"475B. The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or section 471 to discharge all or any of the functions of the Inspector-General of Prisons under section 472, section 473, or section 474."

Amendment of section 495.

13. (1) For the first sentence of section 495 of the same Code the following shall be substituted, namely :—

"Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor-General in Council."

(2) After the last sentence of the same section the following shall be added, namely :—

"An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted."

Amendment of section 510.

14. In section 510 of the same Code, for the word "the" before the words "Chemical Examiner" where those words first occur, the word "any" shall be substituted.

New section to follow tion 541.

15. After secction 541 of the same Code the following shall be inserted, namely :—

Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.

"541A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

"(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

"(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure; or

"(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure."

Addition of new section after section 558.

16. After section 558 of the same Code the following section shall be added, namely :—

Officers concerned in sales not to purchase or bid for property.

"559. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property."

Correction of omission in Schedule II.

17. In Schedule II. of the same Code, between the two lines of entries against section 211 of the Indian Penal Code the following shall be inserted, namely :—

Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
"If offence charged be punishable with imprisonment for seven years.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for seven years and fine.	Court of Session, Presidency Magistrate, or Magistrate of the first class."

1896. Act 10.

Further amendment of Schedule II.

18. In the same Schedule, for section 225A and the line of entries against that section the following shall be substituted, namely :—

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
"225A	Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for—						
	(*a*) in case of intentional omission or sufferance;	Shall not arrest without warrant.	Ditto ...	Bailable.	Ditto ...	Imprisonment of either description for three years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	(*b*) in case of negligent omission of sufferance.	Ditto ...	Summons.	Ditto ...	Ditto ...	Simple imprisonment for two years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
"225B	Resistance or obstruction to lawful apprehension, or escape, or rescue, in cases not otherwise provided for.	May arrest without warrant.	Warrant.	Ditto ...	Ditto ...	Imprisonment of either description for six months, or fine, or both.	Ditto."

Correction of omission in Schedule III.

19. In the part of Schedule III. of the same Code entitled "*IV.—Ordinary Powers of a Sub-divisional Magistrate,*" the following shall be inserted after the second article, namely :—

"(2A) Power to require security for good behaviour, section 110."

Bombay District Police Act, 1867.

Amendment of Bombay District Police Act.

20. The last nine words of section 23 of the Bombay District Police Act, 1867, are hereby repealed.

Indian Penal Code.

Amendment of sections 40 and 64 of the Indian Penal Code.

21. (1) In the second clause of section 40 of the Indian Penal Code, between the figures "66" and "71" the figures "67" shall be inserted.

(2) In the second clause of section 64 of the same Code, after the word "punishable" the words "with imprisonment or fine, or" shall be inserted.

Amendment of section 75 of the Indian Penal Code.

22. In section 75 of the same Code, for the words "or to double the amount of punishment" to the end of the section, the following shall be substituted, namely :—

"or to imprisonment of either description for a term which may extend to ten years."

Addition to section 216 of the Indian Penal Code.

23. After the first paragraph of section 216 of the same Code the following shall be inserted, namely :—

"'Offence'" in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

Substitution of new sections for section 225A of the Indian Penal Code, and repeal of section 651 of the Code of Civil Procedure.

24. (1) For section 225A of the same Code the following sections shall be substituted, namely :—

Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for.

"225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222, or section 223, or in any other law for the time being in force, omits to apprehend that person, or suffers him to escape from confinement, shall be punished—

"(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and

"(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction to lawful apprehension, or escape, or rescue, in cases not otherwise provided for.

"225B. (1) Whoever, in any case not provided for in section 224 or section 225, or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

(2) Section 651 of the Code of Civil Procedure is hereby repealed.

Prisoners' Act, 1871.

Substitution of new sections for sections 30, 31, and 32 of the Prisoners' Act.

25. For sections 30, 31, and 32 of the Prisoners' Act, 1871, the following shall be substituted, namely :—

Removal from one jail to another in territories under same Local Government.

"30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector-General of

Prisons, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

"31. (1) Whenever it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, that Government, by a warrant setting forth the grounds of belief that the person is of unsound mind, may order his removal to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treament, then until he is discharged according to law.

Removal of lunatic prisoners.

"(2) When it appears to the Local Government that the prisoner has become of sound mind, that Government, by a warrant directed to the person having charge of the prisoner, shall, if the prisoner is still liable to be kept in custody, remand him to the prison from which he was removed or to another prison within the territories subject to the same Local Government, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

"(3) The provisions of section 9 of Act XXXVI. of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Magistrate or Court to undergo.

"(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government the Governor-General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand, and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor-General in Council,

"32. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor-General in Council may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India."

Removal of prisoners from territories under one Local Government to territories under another.

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ACT NO. XI. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH MARCH 1886.

An Act to facilitate the construction and to regulate the working of Tramways.

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways; It is hereby enacted as follows:—

Preliminary.

Short title and commencement.

1. (1) This Act may be called the Indian Tramways Act, 1886; and

(2) It shall come into force at once.

Local extent.

2. (1) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort Saint George in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal.

(2) But the Governor of Fort Saint George in Council, the Governor of Bombay in Council, or the Lieutenant-Governor of Bengal, may, by notification in the official Gazette, extend this Act to the whole or any part of the territories under his administration.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "local authority" means a municipal committee, district board, body of port commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(2) "road" means the way of a road, street, thoroughfare, passage, or place along or across which a tramway authorized under this Act is, or is intended to be, laid, and includes the surface-soil and sub-soil of a road, and the footway, berms, drains, and ditches of a road, and any bridge, culvert, or causeway forming part of a road:

(3) "road-authority," in relation to a road, means—

(*a*) if a local authority maintains and repairs the road, then that authority;

(*b*) if a local authority does not maintain and repair the road, and the road is neither vested in Her Majesty nor maintained and repaired by the Government, then the person in whom the road is vested; and

(*c*) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government:

(4) "circle," in relation to a local authority or road-authority, means the area within the control of that authority:

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line, or track belonging to a tramway:

(6) "order" means an order authorising the construction of a tramway under this Act, and includes a further order substituted for, or amending, extending, or varying, that order:

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act, and by the order and any rules made under this Act as to the construction, maintenance, and use of the tramway, have devolved;

(8) "undertaking" includes all moveable and immoveable property of the promoter suitable to and used by him for the purposes of the tramway :

(9) "carriage," in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power :

(10) "toll" includes any charge leviable in respect of the use of a tramway :

(11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorised tolls :

(12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act :

(13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction :

(14) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area the functions of a Collector under this Act : and

(15) "prescribed" means prescribed by rules made by the Local Government under this Act.

Orders authorising the Construction of Tramways.

Application for and consent necessary to making of order.

4. (1) The Local Government may make an order authorising the construction of a tramway in a circle on application made—

(*a*) by the local authority of the circle with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway, and of which the local authority is not itself the road-authority ; or

(*b*) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway, and of which the local authority is not the road-authority :

Provided that, if any part of the proposed tramway is to traverse land which is not included within the limits of a municipality or of a cantonment, the Local Government shall not make the order without the previous sanction of the Governor-General in Council.

(2) A local authority shall not make an application for an order, or be deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

Consent of local or road authority not necessary in certain cases.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Local Government may, nevertheless, make an order authorising the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit, if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed.

Procedure for making order.

6. (1) The Local Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorising the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Local Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Local Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorising the construction of a tramway shall be published in the official Gazette in English, and in the other prescribed language or languages, if any; and that publication shall be conclusive proof that the order has been made as required by this section.

Contents of order.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following, among other matters, that is to say :—

(a) a period before the expiration of which the tramway shall not be commenced, and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period, elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle; and the limits of time within which, and the terms upon which, the local authority may, after the tramway has been constructed, require the promoter to sell to it the undertaking, or so much thereof as is within its circle;

(b) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;

(c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the re-instating of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work;

(d) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriageway over the bridge is to form part of the tramway, or when the tramway is to cross a railway or another tramway on the level;

(e) the space which shall ordinarily intervene between the outside of the carriageway on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted;

(f) the gauge of tramway; the rails to be used, and the mode in which, and the level at which, they shall be laid and maintained; and the adoption and application by the promoter of such improvements in the rails, and

in their situation, and in the substructure upon which they rest, as the Local Government may from time to time require;

(*g*) the portion of the road or roads traversed by the tramway to be kept in repairs by the promoter; the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necesary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads;

(*h*) the application of material excavated by the promoter in the construction or maintenance of the tramway;

(*i*) the provisions of such crossings, passing-places, sidings, junctions, and other works, in addition to those specified in or authorised by the order, as may from time to time be necessary or convenient to the efficient working of the tramway;

(*j*) the powers which may from time to time be exercised by the Local Government, the local authority, the road-authority, or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes, or other things in or on land occupied by the tramway; the notice (if any) to be given of the intended exercise of those powers; the manner in which the powers shall be exercised; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof;

(*k*) the conditions subject to which the promoter may from time to time interfere with, or alter or require the alteration of the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes, or other things as aforesaid;

(*l*) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause;

(*m*) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used;

(*n*) the nature, dimensions, fittings, appliances, and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances, and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public;

(*o*) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government; and the regulation of the traffic and of the levy of the tolls;

(*p*) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway;

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(q) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange, or otherwise; and the conditions subject to which the local authority may be the transferee;

(r) the performance by the Local Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter; and

(s) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.

(3) The Local Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter.

(4) The order shall imply the condition—

(a) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided; and

(b) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorised tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.

Further order.

8. (1) The Local Government may, on the application of the promoter, revoke, amend, extend, or vary the order by a further order.

(2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.

(3) The Local Government may, in its discretion, either grant or reject the application.

(4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers, and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.

Power to authorise joint work by local authorities.

9. (1) Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications, make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the tramway, and the form of the order may be adapted to the circumstances of the case.

Cessation of powers given by an order.

10. (1) If a promoter authorised by an order to construct a tramway—

(a) does not, within the time specified in the order, substantially commence the construction of the tramway, or

(b) having commenced the construction, suspends it without a reason sufficient in the opinion of the Local Government to warrant the suspension, or

(c) does not, within the time specified in the order, complete the tramway, and open it for public traffic,

the following consequences shall ensue :—

(i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised, except as to so much of the tramway as is then completed ;

(ii) as to so much of the tramway as is then completed, the Local Government may either permit, or refuse to permit, the powers given by the order to continue ;

(iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

(2) A notification published by the Local Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

Construction and Maintenance of Tramways.

Mode of formation of tramway.

11. A tramway shall be constructed and maintained in the manner provided by the order.

Inspection of tramway before opening.

12. A tramway, or portion or extension of, or addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Local Government has inspected it, and certified it to be fit for such traffic.

Agreement between road-authority and promoter as to repair of roadway.

13. Subject to the provisions of any order for the time being in force with respect to the matters mentioned in section 7, sub-section (2), clause (*g*), the road-authority and the promoter may, from time to time, enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

Traffic on Tramways.

Rights of promoters and the public over tramways.

14. (1) The promoter of a tramway shall, subject to the provisions of sub-section (2) and to the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway :

Provided that nothing in this Act or in the order, or any rule made under this Act, shall affect the right of any person authorised to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof.

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway : Provided—

(a) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter; and

(b) that the Local Government may by an order authorise the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby.

Tolls leviable by promoter or lessee.

15. (1) The promoter or lessee may demand and take, in respect of the tramway, tolls not exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Local Government.

(2) A list of all the tolls authorised to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

Carriage of dangerous or offensive goods.

16. (1) A person shall not be entitled to carry or to require to be carried, on a tramway constructed under this Act, any goods of a dangerous or offensive nature.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage.

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

Licenses to use Tramways.

Grant to third parties of licenses to use tramway in certain events.

17. If, at any time after a tramway or part of a tramway has been for three years opened for public traffic in a circle, the local authority of the circle represents in writing to the Local Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Local Government may, if after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely:—

(a) the license shall be for a period not less than one year or more than three years from the date of the license, but the Local Government may in its discretion renew it;

(b) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Local Government, having regard to the cause for granting the license, thinks fit ;

(c) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run, the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages ;

(d) the licensee and his officers and servants shall permit one person, duly authorised for that purpose by the promoter or lessee, to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey ;

(e) any provision of this Act, or of the order or rules made under this Act, relating to the functions of a servant of a promoter or lessee, shall be construed, so far as may be, as referring to a servant of the licensee ; and

(f) the Local Government may revoke, alter, or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration, or modification thereof.

Licensee to give to promoter or lessee an account of traffic.

18. A licensee shall, on demand, give to an officer or servant authorised in that behalf by the promoter or lessee an exact account in writing, signed by the licensee, of the number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.

Discontinuance of Tramways.

Cessation of powers of promoter and lessee on discontinuance of tramway.

19. If it is proved to the satisfaction of the Local Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance, the Local Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway, or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end ; and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

Powers of road-authority on cessation of powers of promoter.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in re-instating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in re-instating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the

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road-authority may, without any previous notice to the promoter, and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in re-instating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue (if any) of the proceeds of the sale to the promoter.

Insolvency of Promoter.

Proceedings in case of insolvency of promoter.

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to the public, and either of those authorities makes a representation to that effect to the Local Government, the Local Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

(2) Where a notification has been published under sub-section (1), the road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

Purchase of Tramways.

Future purchase of undertaking by local authority.

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Local Government, may—

(*a*) within such limits of time as may be specified in this behalf in the order, or

(*b*) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or

(*c*) within two months after the publication of a notification under section 19, or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority: and thereupon the promoter shall sell the same upon the terms specified in the order, or, if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the undertaking or any compensation for compulsory sale or other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed.

(3) When a sale has been made under this section, all the rights, powers, and authorities of the promoter in respect of the undertaking or part thereof sold, or, where a notification has been published under section 19 or section 21, all the rights, powers, and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles.

Working of Tramways owned by Local Authorities.

Lease of, or working of, tramway by local authority.

23. (1) When a local authority has, under the authority of an order, completed a tramway, or has, under the provisions of this Act or of an order, acquired possession of a tramway, it may, by a lease to be approved by the Local Government, let to any person the right of user of the tramway, and of demanding and taking the authorized tolls.

(2) On the determination of a lease the local authority may from time to time let the right for such further term and on such conditions as the Local Government may approve.

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Local Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance.

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot, by means of a lease, obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Local Government, and for such term as the Local Government directs, place and run carriages upon the tramway, and demand and take the authorized tolls in respect of the use of the carriages.

Rules.

Power to make rules.

24. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Local Government may make rules consistent with this Act—

(*a*) as to the form in which an application for an order shall be made;

(*b*) as to the costs to be paid by an applicant in respect of an order, and the time when, and the place where, those costs shall be paid;

(*c*) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8; the investment of money so paid; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged, or invested; the application of the money or securities, or the produce thereof, to the discharge

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of any liability incurred by the promoter; and the forfeiture, repayment, or return of the money or securities;

(*d*) as to the plans and sections of any works to be deposited by applicants for orders or by promoters;

(*e*) for regulating the use of steam-power or any other mechanical power on a tramway;

(*f*) as to any matter specified in section 7, sub-section (2), clauses (*c*), (*d*), (*e*), (*j*), and (*k*), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for;

(*g*) as to the periodical submission, by promoters, lessees, and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted;

(*h*) as to the accidents of which report is to be made to the Local Government or as that Government directs;

(*i*) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee; and,

(*j*) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act.

(2) A local authority may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act, and with the order and any rules made by the Local Government under this Act, for regulating—

(*a*) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority;

(*b*) the use of animal power on the tramway;

(*c*) the distances at which carriages using the tramway are to be allowed to follow one after the other;

(*d*) the stopping of carriages using the tramway, and the notice to be given to the public of their approach;

(*e*) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted;

(*f*) the traffic on roads along or across which the tramway is laid;

(*g*) the number of passengers which may be carried in any carriage;

(*h*) the licensing and control of drivers, conductors, and other persons having charge of the carriages of the promoter or lessee or a licensee; and,

(*i*) generally, the mode of use of the tramway.

(3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made under this Act—

(*a*) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to him; and

(*b*) for regulating the travelling in any carriage belonging to him.

(4) The Local Government may cancel any rule made by a local authority or by a promoter or lessee under this section.

Power to impose penalty by rule.

25. The authority making any rule under section 24 may direct that a breach of it shall be punishable with fine which may extend—

(*a*) if the authority making the rule is the Local Government, to two hundred rupees, and

(*b*) if that authority is a local authority or a promoter or lessee, to twenty rupees;

and when the breach is a continuing breach, with a further fine which may extend—

(c) if the authority making the rule is the Local Government, to fifty rupees, and

(d) if that authority is a local authority or a promoter or lessee, to five rupees,

for every day after the first during which the breach continues.

Procedure for making, and publication of, rules.

26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government, in such manner as may, in its opinion, be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

Offences.

Penalty for failure of promotor, lessee, or licensee to comply with Act or order.

27. If a promoter—

(a) constructs or maintains a tramway otherwise than in accordance with the order, or

(b) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or

(c) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee, or licensee runs a carriage on a tramway otherwise than in accordance with the order,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Local Government, or by the local authority or road-authority, or by the District Magistrate, or, with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed.

Penalty for obstructing promoter in exercise of his powers.

28. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

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29. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely :—

Penalty for interfering with tramway.

(*a*) interferes with, removes, or alters any part of a tramway constructed under this Act, or of the works connected therewith, or

(*b*) places or throws upon or across any such tramway any wood, stone, refuse, or other thing, or

(*c*) does anything in such a manner as to obstruct any carriage using any such tramway, or

(*d*) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (*a*), clause (*b*), or clause (*c*),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees.

30. If any person, except under a lease from, or by agreement with, the promoter, or under license from the Local Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

Penalty for using tramway with carriage having flange-wheels.

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee, or of a licensee, evades or attempts to evade payment of toll, or if any person, having paid toll for a certain distance, wilfully proceeds in any such carriage beyond that distance, and does not pay the additional toll for the additional distance, or attempts to evade payment thereof, or if any person wilfully refuses or neglects, on arriving at the point to which he has paid toll, to quit the carriage, he shall be punished with fine which may extend to ten rupees.

Penalty for evading payment of proper toll.

(2) When a person commits an offence under this section, and refuses, on demand of a servant of the promoter, lessee, or licensee, to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police-station, he shall, with the least possible delay, be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

32. If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

Penalty for taking or sending dangerous or offensive goods without giving notice.

33. (1) If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees.

Penalty for licensee not giving to promoter or lessee an account of traffic, or giving false account.

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

34. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it: Provided that a person shall not be punished twice for the same offence.

Saving of prosecutions under other laws.

Settlement of Differences.

35. (1) If any difference arises between the promoter or lessee on the one hand and the Local Government, or the local authority, or the road-authority, or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water-pipes, or other things in or on land occupied by the tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by or on behalf of either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Local Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee.

Differences between promoters or lessees and authorities.

(2) Where the difference is—

(*a*) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other, or

(*b*) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or, where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(3) In other cases the referee shall be appointed by the Local Government.

(4) Except where referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

Recovery of Tolls.

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter or lessee under an award of

Recovery of moneys due from promoters and, in certain cases, from lessees.

a referee, the cost of the performance under this Act by the Local Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and re-instating a road under this Act, may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Collector, as if the sum due were an arrear of land-revenue due by the promter or lessee or his surety (if any):

Provided that nothing in this section shall authorise the arrest of the promoter or lessee or his surety in execution of any process issued by the Collector.

Recovery of tolls from licensees.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible, and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other moveable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or lessee to whom the tolls are due may seize any carriage or other moveable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours, unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an interim order of distraint pending his final decision.

Recovery of tolls from passengers.

38. Any toll due to a promoter, lessee, or licensee from a passenger, may be recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any moveable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

Savings.

Promoter to have right of user only.

39. (1) Notwithstanding anything contained in this Act, or in an order or any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act, or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Local Government may, if it thinks fit, fix rates at which a promoter, lessee, or licensee may compound for the charges payable in respect of the use of a road or bridge.

Saving of power over roads traversed by tramways.

40. (1) Nothing in this Act, or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority, or other person, has by law to break up, widen, alter, divert, or improve a road, railroad, or tramway along or across which a tramway is laid.

(2) The road authority, local authority, or other person executing any work referred to in sub-section (1), shall not be liable to pay to a promoter, lessee, or licensee any compensation for injury done to a tramway by the execution of the work, or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

Saving of power of local authority and police to regulate traffic on roads.

41. Nothing in this Act, or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police-officer to regulate the passage of traffic along or across a road along or across which a tramway is laid; and the authority, Magistrate, or officer aforesaid, may exercise its or his powers as well on as off the tramway, and with respect as well to the traffic of a promoter, lessee, or licensee as to the traffic of other persons.

Supplemental Provisions.

Promoters, lessees, and licensees to be responsible for all injuries.

42. A promoter, lessee, or licensee, shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his carriages or works, and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

Want of funds not a sufficient reason for default.

43. For the purposes of this Act want of funds shall not be deemed to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

Power to exempt from municipal taxation.

44. When a tramway is constructed under this Act within the limits of a municipality, the Local Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds, and depôts of the promoter, lessee, or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

Application by local authorities of local funds to tramways.

45. (1) The fund to or with the control or management of which the local authority of a municipality, cantonment, or district is entitled or entrusted, shall, notwithstanding anything in any enactment respecting the purposes to which that fund may be applied, be applicable, subject to the control of the Local Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in or exercised by a local authority under this Act.

(2) The fund shall also be applicable, with the previous sanction of the Local Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

Extension of Act to existing tramways.

46. The Local Government may, with the consent of the local authority and road-authority and of the promoter and his lessee (if any), extend any part of this Act, or any rules made under this Act, either with or without modification, to the whole or any part of a tramway constructed, or authorised by the Local Government to be constructed, before the passing of this Act, and may withdraw any part of the Act or any rules so extended.

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Prohibition of construction of tramways except under this Act.

47. (1) A tramway of which the construction has not been authorised by the Local Government before the passing of this Act shall not, after the passing of this Act, be constructed for public traffic in any place to which this Act extends, except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section,

or after the passing of this Act maintaining or using for public traffic, otherwise that in pursuance of an order made under this Act, a tramway which was not constructed, or authorised by the Local Government to be constructed, before the passing of this Act,

shall be liable, on the complaint of the Local Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

Transfer of control on exclusion of local area from circle of local authority.

48. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies ceases to be included in the circle of a local authority, the functions of that authority under this Act or the part thereof or the rule thereunder, and under the order (if any), shall, in respect of that local area, devolve on the Local Government or, if that Government so directs, on the local authority of the circle in which the tramway has been included.

Explanation and amendment of section 54 of Railway Act.

49. (1) In section 54 of the Indian Railway Act, 1879, the word "tramway" shall have the meaning assigned to it by section 3 of this Act.

(2) In the same section of that Act, after the words "by steam" the words "or other mechanical power" shall be added.

Powers of Local Government exercisable from time to time.

50. All powers conferred by this Act on a Local Government may be exercised from time to time as occasion requires.

ACT NO. XII. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH MARCH 1886.

An Act to regulate the importation, possession, and transport of Petroleum and other fluids of a like nature.

WHEREAS it is expedient to regulate the importation, possession, and transport of petroleum and other fluids of a like nature; It is hereby enacted as follows:—

Preliminary.

Short title, commencement, and local extent.

1. (1) This Act may be called the Petroleum Act, 1886; and

(2) It shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints.

(3) The provisions of this Act relating to dangerous petroleum, and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may from time to time, by notification in the official Gazette, direct.

(4) Any power conferred by this Act to make rules or issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

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Repeal.

2. (1) On and from the day on which this Act comes into force, the Petroleum Act, 1881, shall be repealed:

(2) But all notifications issued, rules made, licenses granted, powers conferred, and certificates given under that Act, shall, so far as may be, be deemed to have been issued, made, granted, conferred, and given under this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "petroleum" includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, bezine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat, or any other bituminous substance, or from any products of petroleum; but it does not include any oil ordinarily used for lubricating purposes, and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer:

(2) "dangerous petroleum" means petroleum having its flashing point below seventy-six degrees of Fahrenheit's thermometer: Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit's thermometer, and if no one of those samples has its flashing point below seventy degrees of that thermometer:

(3) "import" means to bring into British India by sea or land, and "importation" means the bringing into British India as aforesaid:

(4) "transport" means to remove from one place to another within British India: and

(5) "ship" includes anything made for the conveyance by water of human beings or property.

Matters supplemental to the definitions.

4. (1) The flashing point of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested in accordance with the directions in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing have been made.

(2) Notwithstanding anything in the definitions of "import," "importation," and "transport," the Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the official Gazette, declare—

(*a*) that petroleum imported into its territories from any part of British India, by sea or across intervening territory not being part of British India, shall, for all or any of the purposes of this Act, be deemed to be transported; and

(*b*) that petroleum transported into its territories from any place in British India shall, for all or any of those purposes, be deemed to be imported;

and thereupon the provisions of this Act, and of the rules made under this Act, with respect to transport and import respectively, shall apply to petroleum so imported or transported.

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Dangerous Petroleum.

Dangerous petroleum in quantities exceeding 40 gallons.

5. (1) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, except under, and in accordance with the conditions of, a license from the Local Government granted as next hereinafter provided.

(2) Every application for such a license shall be in writing, and shall declare—

(*a*) the quantity of the petroleum which it is desired to import, transport, or possess, as the case may be;

(*b*) the purpose for which the applicant believes that the petroleum will be used; and

(*c*) that petroleum other than dangerous petroleum cannot be used for that purpose.

(3) If the Local Government sees reason to believe that the petroleum will be used for that purpose, and that no petroleum other than dangerous petroleum can be used for the purpose, it may grant the license for the importation, transport, or possession (as the case may be) of the petroleum, absolutely or subject to such conditions as it thinks fit.

Dangerous petroleum in quantities not exceeding forty gallons.

6. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license:

Provided that nothing in this section shall apply in any case when the quantity of the petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and the petroleum is placed in separate glass, stoneware, or metal vessels, each of which contains not more than a pint, and is securely stopped.

Vessels containing dangerous petroleum to be labelled.

7. Dangerous petroleum—

(*a*) which is kept at any place after seven days from the date on which it is imported, or

(*b*) which is transported, or

(*c*) which is sold or exposed for sale,

shall be contained in vessels having attached thereto a label in conspicuous characters, stating the description of the petroleum, with the addition of the words "highly inflammable," and with the addition—

(*d*) in the case of a vessel kept, of the name and address of the consignee or owner;

(*e*) in the case of a vessel transported, of the name and address of the sender; and

(*f*) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

Petroleum generally.

Power for Local Government to make rules as to importation and refining of petroleum.

8. (1) The Local Government, with the previous sanction of the Governor-General in Council, may make rules consistent with this Act to regulate the importation of petroleum, and in particular—

(*a*) to determine the ports at which only petroleum may be imported;

(*b*) to ascertain the quantity and description of any petroleum on board any ship;

(*c*) to determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed, transhipped, or stored;

(*d*) to provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed ;

(*e*) to provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples ;

(*f*) to provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples ;

(*g*) to fix fees for the sampling and testing of petroleum ; and

(*h*) to fix fees for the storage of petroleum, unless a body of port commissioners or other like body is empowered in that behalf.

(2) The Local Government, with the previous sanction of the Governor-General in Council, may, with respect to any petroleum produced within its territories, make rules—

(*a*) to define the limits of the places where the petroleum is to be refined ;

(*b*) to provide for the testing of the petroleum at or near those places ; and

(*c*) to prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum which has not satisfied the tests prescribed by the rules.

Procedure after petroleum has been discharged or landed.

9. (1) Petroleum discharged into boats or landed in accordance with rules made under section 8, sub-section (1), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Local Government in this behalf in the manner described in the schedule to this Act, with an apparatus which has been stamped and certified as provided by this Act, and until the officer has given a certificate that the petroleum is not dangerous petroleum.

(2) If the officer after testing the samples refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

(*a*) to rectify the petroleum,

(*b*) to apply for a license to import the petroleum as dangerous petroleum, or

(*c*) to re-export the petroleum.

(3) If the consignee does not within the time fixed under sub-section (2) avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government directs.

(4) Notwithstanding anything in the foregoing portions of this section, the Local Government in its discretion may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorise its removal from the boats or places in or at which it is stored.

Possession and transport of petroleum.

10. No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises, or shall be transported, except under, and in accordance with the conditions of, a license granted under this Act.

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Power to make rules as to possession and transport.

11. (1) The Local Government, with the previous sanction of the Governor-General in Council, may make rules consistent with this Act as to the granting of licenses to possess or transport petroleum in cases where such licenses are by law required.

(2) The rules may provide for the following among other matters, that is to say:—

in the case of licenses to possess petroleum—

(*a*) the nature and situation of the premises for which they may be granted, and

(*b*) the inspection of the premises and the testing of petroleum found thereon;

in the case of licenses to transport petroleum—

(*c*) the manner in which the petroleum is to be packed, the mode and time of transit, and the route by which it is to be taken, and

(*d*) the stoppage and inspection of it during transit;

in the case of both such licenses—

(*e*) the authority by which the license may be granted;

(*f*) the fee to be charged for it;

(*g*) the quantity of petroleum it is to cover;

(*h*) the conditions which may be inserted in it;

(*i*) the time during which it is to continue in force; and

(*j*) the renewal of the licenses.

(3) The Governor-General in Council may make rules consistent with this Act as to the granting of license to transport petroleum from any part of British India to any other part of British India in cases where such licenses are by law required; and those rules may provide, among other matters, for those mentioned in sub-section (2) as matters for which rules made by a Local Government with respect to licenses to transport petroleum may provide.

Power to inspect and require dealer to sell samples.

12. Any officer specially authorised by name or by virtue of his office in this behalf by the Local Government may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

Notice to be given when officer proposes to test samples.

13. When any such officer has, in exercise of the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample or cause it to be tested with the apparatus and in the manner described in the schedule to this Act, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

Certificate as to result of testing.

14. On any such testing, if it appears to the officer or other person so testing that the petroleum from which the sample has been taken is or is not dangerous petroleum, the officer or other person may certify the fact; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein; and a certified copy of the certificate shall be given free of charge to the dealer at his request.

Penalties.

Penalty for illegal importation, possession, or transport of petroleum.

15. Any person who, in contravention of this Act or of any rules made under this Act, imports, possesses, or transports any petroleum, and any person who otherwise contravenes any such rules or any condition contained in a license granted under this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for keeping, transporting, selling, or exposing for sale petroleum in contravention of section 7.

16. Any person keeping, transporting, selling, or exposing for sale petroleum in vessels not labelled as prescribed by section 7, shall be punished with fine which may extend to five hundred rupees.

Penalty for refusing to comply with section 12.

17. Any dealer in petroleum who refuses or neglects to show to any officer authorised under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples, shall be punished with fine which may extend to two hundred rupees.

Confiscation of petroleum.

18. In any case in which an offence under section 15 or section 16 has been committed, the convicting Magistrate may direct that—

(*a*) the petroleum in respect of which the offence has been committed, or

(*b*) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport, or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction.

19. The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras, and Bombay, be exercised by a Presidency Magistrate, and elsewhere by a Magistrate of the first class, or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Test-apparatus.

Model test-apparatus.

20. A model of the apparatus for testing petroleum under this Act, constructed in accordance with the description contained in the schedule to this Act, shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words " Model test-apparatus."

Verification of test-apparatus.

21. (1) The Chemical Examiner shall, on payment of such fee (if any) as the Governor-General in Council may, from time to time, by notification in the *Gazette of India*, prescribe, compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

(2) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (1), is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner

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shall stamp the same with a special number, and with the date of the verification, and shall further give a certificate in writing under his hand, in a form to be prescribed by the Governor-General in Council, to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(3) A certificate granted under this section shall, until the contrary is proved, be conclusive proof of the matters stated therein.

(4) The Chemical Examiner shall keep a register, in a form to be prescribed by the Governor-General in Council, of the certificates granted under this section.

(5) Subject to the payment of such fees as the Governor-General in Council may, by notification in the *Gazette of India*, prescribe in this behalf, the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

Miscellaneous.

Power to Local Government to exempt petroleum from operation of this Act.

22. The Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of all or any of the provisions of this Act, or of all or any of the rules made under this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer, and is imported as ordinary cargo, and in quantity not exceeding that specified in the notification.

Power to apply this Act to other fluids.

23. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, apply the whole or any portion of this Act to any inflammable fluid other than petroleum, and may, by the notification, fix, in substitution for the quantities of petroleum fixed by sections 5, 6, and 10, the quantities of the fluid to which those sections shall apply.

Power to limit operation of enactments relating to municipalities.

24. The Governor-General in Council may, from time to time, by notification in the *Gazette of India* and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to municipalities in any local area or to any particular municipality, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

Power to revoke or vary notifications.

25. A notification made under this Act may be revoked or varied by the authority making it by a notification published in the same manner as the notification so revoked or varied.

Procedure for making and publication of rules.

26. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be publishsd with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect if it is made by the Governor-General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE SCHEDULE.

I.—Nature of the Test-apparatus.

The apparatus consists of the following parts :—

(1) the oil-cup ;

(2) the cover, with slide, test-lamp, and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame ;

(3) the water-bath or heating vessel ;

(4) the tripod stand, with jacket and spirit-lamp for heating the water-bath ;

(5) the thermometer for indicating the temperature of the oil in the oil-cup ;

(6) the thermometer for indicating the temperature of the water in the water-bath ;

(7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup ;

(8) the dropping bottle or *pipette* for replenishing the test-lamp ; and

(9) a barometer standardised at the Meteorological Office of the province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel, made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close fitting overlapping cover, which carries the thermometer, the test-lamp, and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle, and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre, and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two ; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a runnel, an overflow-pipe, and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide, is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

II.—Directions for drawing the Sample and preparing it for testing.

1. *Drawing the sample.*—In all cases the testing officer or some person duly authorised by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about 40 fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

2. *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

III.—Directions for preparing and using the Test-apparatus.

1. *Preparing the water-bath.*—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or *pipette* provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the guage which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup, and pressed down so that its edge rests on the rim of the cup.

4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit the clockwork is set in motion by pressing the trigger.

If no flash takes place the clockwork is at once re-wound, and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit the temperature at which it occurs is to be recorded. The fresh portions of the sample are then to be successively tested in a similar manner, and the results recorded. If no greater

difference than 2° Fahrenheit exists between any two of the three recorded results, each result is to be corrected for atmospheric pressure, as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, the series of tests is to be rejected, and a fresh series, of three, similarly obtained, and so on until a sufficiently concordant series is furnished, when the results are to be corrected, and the average taken in the manner already described.

No flash which takes place within eight degrees of the temperature at which the testing is commenced shall be accepted as the true flashing point of the sample tested. In the event of a flash occurring at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2°.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and dangerous. But if the petroleum is oil ordinarily used for lubricating purposes, and is declared to have its flashing point at or above 200° degrees, or is oil to which a notification of the Local Government exempting it from the operation of the Act will be applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows :—The oil-cup is to be removed from the water bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath, and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied, from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place, or until a temperature of 200° Fahrenheit or 120° Fahrenheit, as the case may be, has been reached. If during this operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Farenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric pressure*.—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1·6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air-pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule, giving the flashing points of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner :—

Example.—An oil has given a flashing point of 71°, the barometer being at 28·6 inches; take the nearest number to 71° in the vertical column headed 28·6. This number is 70·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

Table for correction of Flashing Points indicated by the Test for Variations in Barometric Pressure on either side of Thirty Inches.

Barometer in Inches.

27	27·2	27·4	27·6	27·8	28	28·2	28·4	28·6	28·8	29	29·2	29·4	29·6	29·8	30	30·2	30·4	30·6	30·8	31
							Flashing Point in Degrees Fahrenheit.													
60·2	60·5	60·8	61·2	61·5	61·8	62·1	62·4	32·8	63·1	63·4	63·7	64	64·4	64·7	65	65·3	65·6	66	66·3	66·6
61·2	61·5	61·8	62·2	62·5	62·8	63·1	63·4	63·8	64·1	64·4	64·7	65	65·4	65·7	66	66·3	66·6	67	67·3	67·6
62·2	62·5	62·8	63·2	63·5	63·8	64·1	64·4	64·8	65·1	65·4	65·7	66	66·4	66·7	67	67·3	67·6	68	68·3	68·6
63·2	63·5	63·8	64·2	64·5	64·8	65·1	65·4	65·8	66·1	66·4	66·7	67	67·4	67·7	68	68·3	68·6	69	69·3	69·6
64·2	64·5	64·8	65·2	65·5	65·8	66·1	66·4	66·8	67·1	67·4	67·7	68	68·4	68·7	69	69·3	69·6	70	70·3	70·6
65·2	65·5	65·8	66·2	66·5	66·8	67·1	67·4	67·8	68·1	68·4	68·7	69	69·4	69·7	70	70·3	70·6	71	71·3	71·6
66·2	66·5	66·8	67·2	67·5	67·8	68·1	68·4	68·8	69·1	69·4	69·7	70	70·4	70·7	71	71·3	71·6	72	72·3	72·6
67·2	67·5	67·8	68·2	68·5	68·8	69·1	69·4	69·8	70·1	70·4	70·7	71	71·4	71·7	72	72·3	72·6	73	73·3	73·6
68·2	68·5	68·8	69·2	69·5	69·8	70·1	70·4	70·8	71·1	71·4	71·7	72	72·4	72·7	73	73·3	73·6	74	74·3	74·6
69·2	69·5	69·8	70·2	70·5	70·8	71·1	71·4	71·8	72·1	72·4	72·7	73	73·4	73·7	74	74·3	74·6	75	75·3	75·6
70·2	70·5	70·8	71·2	71·5	71·8	72·1	72·4	72·8	73·1	73·4	73·7	74	74·4	74·7	75	75·3	75·6	76	76·3	76·6
71·2	71·5	71·8	72·2	72·5	72·8	73·1	73·4	73·8	74·1	74·4	74·7	75	75·4	75·7	76	76·3	76·6	77	77·3	77·6
72·2	72·5	72·8	73·2	73·5	73·8	74·1	74·4	74·8	75·1	75·4	75·7	76	76·4	76·7	77	77·3	77·6	78	78·3	78·6
73·2	73·5	73·8	74·2	74·5	74·8	75·1	75·4	75·8	76·1	76·4	76·7	77	77·4	77·7	78	78·3	78·6	79	79·3	79·6
74·2	74·5	74·8	75·2	75·5	75·8	76·1	76·4	76·8	77·1	77·4	77·7	78	78·4	78·7	79	79·3	79·6	80	80·3	80·6
75·2	75·5	75·8	76·2	76·5	76·8	77·1	77·4	77·8	78·1	78·4	78·7	79	79·4	79·7	80	80·3	80·6	81	81·3	81·6

ACT NO. XIII. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 19TH MARCH 1886.

An Act to consolidate and amend the law relating to Government Securities.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Securities Act, 1886; and

(2) It shall come into force on the first day of April, 1886.

(3) The power conferred on the Governor-General in Council by section 7, sub-section (1), may be exercised at any time after the passing of this Act; but a notification issued in exercise of that power shall not take effect until the Act comes into force.

Repeal.

2. (1) On and from the day on which this Act comes into force, the Indian Securities Act, 1881, and the Indian Securities Act, 1885, shall be repealed.

(2) But any authority conferred, notification issued, list published, or rule or order made under either of those Acts, shall, so far as may be, be deemed to have been conferred, issued, published, or made under this Act.

Definitions.

3. In this Act—

(1) "Government security" includes promissory notes, debentures, stock-certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan contracted either before or after the passing of this Act, but does not include a stock-note or a currency-note: and

(2) "prescribed" means prescribed by rules made by the Governor-General in Council.

Notice of trust not receivable.

4. No notice of any trust in respect of any Government security shall be receivable by the Government.

Right of survivors of joint-payees of Government securities.

5. (1) Notwithstanding anything in the Indian Contract Act, 1872, section 45, when a Government security is payable to two or more persons jointly, and either or any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

Prohibition of indorsements on allonges to Government securities.

6. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, the holder of a Government security shall not be said to indorse the security, or be called the indorser thereof, if, when he signs the same for the purpose of negotiation, he inscribes his signature for that purpose elsewhere than on the back of the security itself.

Holding of Government securities by holders for the time being of public offices.

7. (1) In the case of any public office to which the Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare this sub-section to apply, a Government security may be made or

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indorsed payable to or to the order of the holder for the time being of the office by the name of the office.

(2) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder for the time being of the office to the succeeding holder for the time being of the office on and from the date on which the latter takes charge of the office.

(3) When the holder for the time being of the office indorses to a third party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(4) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office for the time being, shall not be deemed to be or to have been invalid by reason only of the payee or indorsee being the holder for the time being of a public office by the name of the office.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

Transfer and discharge of certificates and coupons.

8. (1) Whenever the Governor-General in Council has issued, in respect of any loan, a certificate declaring the bearer thereof to be entitled to the portion of the loan therein expressed, or a coupon for any amount payable as interest on any portion of the loan, the title to the certificate or coupon may be transferred as if the certificate or coupon were a promissory note payable to bearer.

(2) On payment, by or on behalf of the Government, to the bearer of the certificate or coupon, of the amount expressed therein, at or after the date on which it becomes due, the Government shall be discharged as if the certificate or coupon were a promissory note payable to bearer.

Indorser of Government security not liable for amount thereof.

9. A person shall not, by reason only of his having indorsed a Government security, be liable to pay any money due, either as principal or as interest, thereunder.

Impression of signature on Government securities.

10. (1) The signature of the officer of the Government of India authorized to sign Government securities on behalf of the Government may be printed, engraved, or lithographed, or impressed by such other mechanical process as the Governor-General in Council may direct, on the securities.

(2) A signature so printed, engraved, lithographed, or otherwise impressed, shall be as valid as if it had been inscribed in the proper handwriting of the officer.

Issue of renewed securities.

11. A person claiming to be entitled to a Government security as payable to him under an indorsement may, on satisfying the prescribed officer of the justice of his claim, and paying the prescribed fee, and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

Issue of duplicate securities.

12. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom, but for the loss or destruction, it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor-General in Council may, from time to time, direct.

Period after which the Government is released from liability in respect of original security.

13. When a renewed security has been issued under section 11, or a duplicate security has been issued under section 12, the Government shall be discharged from all liability in respect of the original security of which the renewed or duplicate security has been issued—

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 12, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is the later.

Power of Governor-General in Council to make rules.

14. The Governor-General in Council may, from time to time, make rules to prescribe—

(a) the mode in which payment of interest in respect of Government securities is to be recorded and acknowledged;

(b) the circumstances in which Government securities must be renewed before further payment of interest thereon can be claimed;

(c) the fees to be paid in respect of applications under sections 11 and 12;

(d) the form in which securities delivered for renewal are to be receipted;

(e) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 11 and 12;

(f) the proof which is to be produced by persons applying for duplicate securities;

(g) the form and mode of publication of the notification mentioned in section 12, and the period after which interest may be paid or a duplicate security may be issued under that section;

(h) the nature and amount of the indemnity to be given by a person applying under section 12 for the payment of interest or the issue of a duplicate security; and,

(i) generally, all matters connected with the grant of renewed and duplicate securities.

Publication of drafts and rules.

15. (1) The Governor-General in Council shall, before making rules under section 14, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor-General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under section 14 shall be published in the *Gazette of India*, and the publication in that Gazette of a rule purporting to be made under that section shall be conclusive proof that it has been duly made.

ACT NO. XIV. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 10TH JUNE 1886.

An Act to amend the North-Western Provinces Rent Act, 1881.

WHEREAS it is expedient to amend the North-Western Provinces Rent Act, 1881; It is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the North-Western Provinces Rent Act, 1886; and it shall come into force at once.

Amendment of section 95 of Act XII. of 1881.

2. For the last paragraph of section 95 of the North-Western Provinces Rent Act, 1881, the following shall be substituted, namely:—

"For the purposes of the Court-fees Act, 1870, the amount of fee payable in the cases next hereinafter mentioned shall be computed as follows:—

"(i) in applications under clause (*c*), and in appeals from orders passed on applications under that clause, as in a suit for possession of the land to which the application or appeal relates;

"(ii) in applications under clauses (*l*), (*n*), (*o*), and (*p*), and in appeals from orders passed on applications under clauses (*d*), (*e*), (*f*), (*l*), (*n*), (*o*), (*p*), (*q*), and (*s*), according to the rent of the land to which the application or appeal relates payable for the year next before the date of presenting the application, or, if in any case the fee cannot be so computed, then according to the annual letting value of the land as estimated by the applicant or appellant, as the case may be;

"(iii) in applications under clause (*m*), and in appeals from orders passed on applications under clauses (*j*), (*m*), and (*t*), according to the amount claimed in the application or in the petition of appeal, as the case may be."

New sections inserted after section 100 of same Act.

3. After section 100 of the same Act the following sections shall be inserted, namely:—

Power of Board to transfer business.

"100A. The Board may, on cause shown to its satisfaction, transfer any suit, application, or appeal, or class of suits, applications, or appeals, from any Court of Revenue to any other Court of Revenue competent as regards the nature of the case or class of cases to deal therewith under the provisions of this Act.

Commissioners may transfer appeals.

"100B. (1) The Commissioner of a Division may, with the sanction of the Local Government, transfer any appeal or class of appeals pending before himself to any Collector of a district within his Division.

"(2) The order passed by a Collector on an appeal transferred to him by the Commissioner under sub-section (1) shall be subject to appeal and revision in the same manner as if it had been passed by the Commissioner, and not otherwise.

"(3) The Local Government may by order recall any appeal transferred to a Collector under sub-section (1), and refer it for disposal to the Commissioner of the Division by whom it was transferred."

Amendment of section 169 of same Act.

4. For the last paragraph of section 169 of the same Act the following shall be substituted, namely :—

"The provisions of sections 74 to 78 (both inclusive) and section 80 shall, so far as they can be made applicable, apply to the sale of the property as if the terms 'distress,' 'distrained property,' and 'distrainer,' included respectively the execution of a writ against moveable property, moveable property taken in execution of a writ, and a judgment-creditor."

Addition to section 189 of same Act.

5. In section 189 of the same Act, after the words "one hundred rupees, or" the following shall be inserted, namely :—

"in which the rent payable by the tenant has been a matter in issue, and has been determined, or"

Sections 19, 196, and 197 of the same Act in part repealed.

6. In the same Act the last twelve words of section 196, the last twelve words of clause (*a*) of both sections 193 and 196, and the last six words of section 197, are repealed.

Amendment of section 194 of same Act.

7. In section 194 of the same Act the word "other" is repealed; and in clause (*b*) of the same section, for the word and figures "section 99" the words and figures "sections 99 and 100" shall be substituted.

Substitution of new section for section 195 of same Act.

8. For section 195 of the same Act the following shall be substituted, namely :—

"195. The orders of an Assistant Collector of the first class on applications mentioned in section 98 shall be final."

Amendment of section 198 of same Act.

9. In section 198 of the same Act, for the word and figures "section 100" the words and figures "sections 99 and 100" shall be substituted.

Section 199 of same Act amended.

10. In section 199 of the same Act, after the words "The Board may" the words "notwithstanding anything hereinbefore contained" shall be inserted.

Addition to section 211 of same Act.

11. In section 211, after clause (*d*) the following shall be inserted, namely :—

"(*e*) as to the transfer of appeals to Collectors under section 100B."

Saving of orders passed before Act came into force

12. Nothing in this Act shall confer a right to appeal from any decision or order passed before the coming into force of this Act from which an appeal would not have lain if this Act had not been passed.

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ACT NO. XV. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 10TH JUNE 1886.

An Act to amend the North-Western Provinces Land-revenue Act, 1873.

WHEREAS it is expedient to amend the North-Western Provinces Land-revenue Act, 1873, in manner hereinafter appearing; It is hereby enacted as follows:—

New section inserted after section 11.

1. After section 11 the following section shall be inserted, namely:—

Appointment, powers, and duties of Additional Commissioner.

"11A. (1) The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, appoint an Additional Commissioner in a Division.

"(2) An Additional Commissioner shall hold his office during the pleasure of the Local Government.

"(3) An Additional Commissioner shall exercise such powers, and discharge such duties, of the Commissioner of the Division under this Act, or under any other law for the time being in force, as the Local Government may, from time to time, prescribe, but only in such cases as the Commissioner of the Division may direct.

"(4) This Act and every other law for the time being applicable to the Commissioner of the Division shall apply to the Additional Commissioner, when exercising any powers or discharging any duties under sub-section (3), as if he were the Commissioner of the Division."

ACT NO. XVI. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH JULY 1886.

An Act to make provision for the more speedy trial of certain accused persons in custody in Lower Burma.

WHEREAS it is expedient to make provision for the more speedy trial of certain accused persons in custody in Lower Burma; It is hereby enacted as follows:—

Short title, extent, and commencement.

1. (1) This Act may be called the Lower Burma Gaols Delivery Act, 1886.

(2) It extends to such districts of Lower Burma as the Local Government may by notification in the official Gazette declare to be disturbed; and

(3) It shall come into force at once.

Construction.

2. (1) This Act shall, so far as is consistent with the terms thereof, be construed as one with the Code of Criminal Procedure, 1882.

(2) "Lower Burma" in this Act means the territories administered by the Chief Commissioner of British Burma on the thirty-first day of December, 1885: and

(3) "Scheduled offence" means an offence mentioned in the schedule to this Act.

Conferment of powers of Court of Session on Magistrates.

3. (1) The Local Government may, by notification in the official Gazette, confer on any Magistrate of the first class the powers of a Court of Session as a Court of original jurisdiction for the trial of persons accused of scheduled offences.

(2) A Magistrate on whom those powers of a Court of Session have been so conferred may take cognizance of—

(a) any scheduled offence without the accused person being committed to him by a Magistrate, and

(b) such cases in which persons accused of any scheduled offence have been committed to the Court of Session by Magistrates as the Local Government by general or special order directs him to try, or as the Sessions Judge of the Division makes over to him for trial.

(3) When a Magistrate, in exercise of those powers of a Court of Session, takes cognizance of any scheduled offence without the accused person being committed to him by a Magistrate, he shall follow the procedure prescribed by the Code of Criminal Procedure for the trial of warrant-cases by Magistrates, and the provisions of that Code relating to trial before a Court of Session shall not apply.

(4) Proceedings pending before a Magistrate under Chapter XVIII. of the Code of Criminal Procedure at the time of the conferment on him of those powers of a Court of Session may be continued by him under Chapter XXI. of that Code as if they had been commenced under the latter Chapter:

Provided that the accused person may demand that any witness who has given evidence before the conferment of the powers be re-summoned and re-heard.

(5) Sentences, judgments, and orders passed by a Magistrate in exercise of those powers of a Court of Session, shall be subject to confirmation, appeal, and revision as if they had been passed by a Court of Session.

Appointment of Additional Judicial Commissioner.

4. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, appoint such person or persons as it thinks fit to be an Additional Judicial Commissioner or Additional Judicial Commissioners, and to sit as such in any districts mentioned in the notification.

(2) An Additional Judicial Commissioner shall, with respect to scheduled offences, exercise, within any districts in which he is appointed to sit, such jurisdiction and powers of the Judicial Commissioner as the Local Government may prescribe.

(3) Every enactment for the time being applicable to the Judicial Commissioner shall apply to an Additional Judicial Commissioner when exercising any jurisdiction or powers under sub-section (2).

Withdrawal of powers and cancelment of appointment under this Act.

5. The Local Government may withdraw any powers, and cancel any appointment, conferred or made under this Act.

Modification of Whipping Act.

6. Notwithstanding anything in Act VI. of 1864 (*an Act to authorize the punishment of whipping in certain cases*), but subject to the provisions of sections 390 to 395 (both inclusive) of the Code of Criminal Procedure, a person convicted of a scheduled offence may be sentenced to whipping either in lieu of or in addition to any other punishment to which he may be liable under the Indian Penal Code.

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Limitation for appeal from conviction of scheduled offence.

7. Notwithstanding anything in the Indian Limitation Act, 1877, the period of limitation for an appeal to the Judicial Commissioner or an Additional Judicial Commissioner from a conviction of a scheduled offence shall, except in the cases provided for by No. 150 and No. 157 of the second schedule to that Act, be thirty days from the date of the conviction.

Expiration of Act.

8. This Act shall expire on the thirtieth day of June, 1887, or on such earlier date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, appoint in this behalf.

THE SCHEDULE.

Section of Indian Penal Code.	Offence.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.
121A	Conspiring to commit certain offences against the State.
122	Collecting arms, &c., with the intention of waging war against the Queen.
124A	Exciting, or attempting to excite, disaffection.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.

Section of Indian Penal Code.	Offence.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire, or explosive substance, with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire, or explosive substance, with intent to destroy a house, &c.
440	Mischief committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c.
	Abetment of any of the foregoing offences.
	Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences.

ACT NO. XVII. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 17TH SEPTEMBER 1886.

An Act to annex the Town and Fort of Jhánsí and certain adjacent Territory to the Jhánsí District, and for certain other purposes.

Short title and commencement.

1. (1) This Act may be called the Jhánsí and Morar Act, 1886; and

(2) It shall come into force on a date to be appointed in this behalf by the Lieutenant-Governor of the North-Western Provinces, which date is in this Act referred to as the commencement of this Act.

PART I.

WHEREAS since the beginning of March, 1886, the town and fort of Jhánsí have been ceded to the British Government in full sovereignty by His Highness the Mahárájá Scindia in exchange for the cantonment of Morar, which has been ceded to His Highness in full sovereignty by the British Government;

And whereas the town and fort of Jhánsí have been declared by the Governor-General in Council to be subject to the Lieutenant-Governorship of the North-Western Provinces;

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And whereas it is proposed that certain lands adjacent to the Jhánsí district should be ceded to the British Government in full sovereignty by His Highness in exchange for certain other lands to be ceded to His Highness in full sovereignty by the British Government;

And whereas it is expedient that the town and fort of Jhánsí, and the lands to be ceded to the British Government, should be annexed to the Jhánsí district, and that the law in force therein should be the same as the law in force in that district;

And whereas it is also expedient that the town and fort, and the lands which may be ceded to the British Government, should, for the purposes of the Scheduled Districts Act, 1874, form part of the Jhánsí district;

It is hereby enacted as follows:—

Annexation of ceded lands to Jhánsí district.

2. The town and fort of Jhánsí, and the lands which may be ceded to the British Government in accordance with the proposal referred to in the preamble to this Part, shall, in the case of the town and fort, from the commencement of this Act, and, in the case of any of the lands, from the date of the cession thereof, be deemed to be part of the Jhánsí district.

Assimilation of law in force in ceded lands to law in force in Jhánsí district.

3. All enactments which, at the commencement of this Act, or at the date of the cession of any of the lands referred to in the last foregoing section, are or shall be in force in the Jhánsí district, and not in the town and fort of Jhánsí or in those lands, shall then come into force in the town and fort or in those lands, as the case may be.

Ceded lands to become part of the scheduled district of Jhánsí.

4. On and from the commencement of this Act, or the date of the cession of any of those lands, as the case may be, the town and fort of Jhánsí and the lands shall be deemed to form part of the district of Jhánsí mentioned in Part IV. of the first schedule to the Scheduled Districts Act, 1874.

Validation of acts done since the beginning of March, 1886.

5. All acts of executive authority, proceedings, decrees, and sentences which have been done, taken, or passed in or with respect to the town and fort of Jhánsí since the beginning of March, 1886, and before the commencement of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Lieutenant-Governor of the North-Western Provinces, shall be as valid and operative as if they had been done, taken, or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees, or sentences, were not done, taken, or passed in accordance with law.

PART II.

AND whereas it is expedient that decrees and orders passed by the Civil and Revenue Courts of His Highness in cases which would have been cognizable by the Civil and Revenue Courts of the Jhánsí district under the Code of Civil Procedure or the Jhánsí Courts Act, 1867, or the North-Western Provinces Rent Act, 1881, if the territory ceded by His Highness had been part of the Jhánsí district at the time of the institution of the cases, should be capable of being executed as if they had been made by the Courts of the Jhánsí district;

And whereas the period of limitation prescribed for suits in the territories of His Highness is twelve years, and it is expedient that persons having just claims which, but for the cession of territory, they might have enforced in the Courts of His Highness, should not be debarred from enforcing those claims by reason of a shorter period of limitation being prescribed for any class of suits by the law in force in the Jhánsí district;

And whereas it is expedient that suits pending in the Courts of His Highness and left undetermined by those Courts by reason of cession of territory should be continued in the Courts of the Jhánsí district;

And whereas it is expedient to remove doubts as to the effect of the law in force in the Jhánsí district, with respect to registration and stamps, on documents and instruments to which at the time of their execution the law of His Highness applied and the law of British India did not apply;

It is hereby further enacted as follows:—

Execution of decrees of Gwalior Courts.

6. (1) An application for the execution of a decree or order passed by a Civil or Revenue Court of His Highness in any such case as is referred to in the first clause of the preamble to this Part may, with the previous sanction of the Deputy Commissioner, be made to any Court in the Jhánsí district subordinate to the Court of the Commissioner which may be specified by the Deputy Commissioner in that behalf in his order giving the sanction.

(2) If in any case the Deputy Commissioner is of opinion that for special reasons the sanction ought to be withheld or ought to be granted subject to conditions, he may either withhold his sanction or permit the application to be made on any conditions which in the circumstances he deems it proper to impose; but in either of those cases he shall record the reasons in writing.

(3) The fact that an application is barred by the Indian Limitation Act, 1877, may be sufficient cause for withholding sanction to the making of the application, but in any case in which the holder of the decree or order has been debarred from enforcing it by reason of the cession of the town and fort of Jhánsí to the British Government, and to which the Deputy Commissioner sees fit to apply the provisions of that Act, the Deputy Commissioner shall, in computing the period of limitation, exclude therefrom the time which has elapsed between the cession of the town and fort and the commencement of this Act.

(4) Subject to revision by the Commissioner of the Jhánsí Division, an order of the Deputy Commissioner sanctioning or refusing to sanction the making of an application under this section, or imposing conditions with respect thereto, shall be final.

Extension of period of limitation for certain suits.

7. (1) Notwithstanding anything in the Indian Limitation Act, 1877, or in any other enactment, the Deputy Commissioner may, within such term, not exceeding two years from the commencement of this Act, as the Local Government may prescribe in this behalf, admit any suit of a nature cognizable by the Courts of British India, which, if there had not been a cession of territory, and the suit had been instituted in a Court of His Highness having jurisdiction with respect thereto, would not be liable to be dismissed by that Court by reason of its being barred by any law of limitation.

(2) In the computation of the period of limitation for a suit referred to in sub-section (1) which the plaintiff has been debarred from instituting by

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reason of the cession of the town and fort of Jhánsí to the British Government, there shall be excluded from the period the time which has elapsed between the cession of the town and fort and the commencement of this Act.

(3) Subject to revision by the Commissioner of the Jhánsí Division, an order of the Deputy Commissioner admitting or refusing to admit a suit under sub-section (1) shall be final.

Continuance of pending suits.

8. An original suit pending in a Court of His Highness, and left undetermined by that Court by reason of cession of territory, may be continued, under the law of limitation applicable to that Court, but otherwise in accordance with the law and procedure of British Indian Courts, in any Court in the Jhánsí district subordinate to the Court of the Commissioner which the Deputy Commissioner may appoint in that behalf.

Saving in favour of unregistered documents and unstamped instruments.

9. The provisions of the law of British India with respect to the consequences of documents being unregistered or instruments being unstamped shall not apply to any document or instrument which may have been executed before a date to be prescribed in this behalf by the Local Government, and to which the law of His Highness applied, and the law of Britsh India did not apply, at the time of its execution.

PART III.

AND whereas it is expedient that traders and others who were entitled immediately before the cession of the cantonment of Morar to institute certain suits in, or make applications for or with respect to the execution of certain decrees to, a Civil Court at Morar, should be enabled to institute those suits in, and make those applications to, the Civil Courts at Jhánsí and Agra, and at any other place from time to time appointed in this behalf by the Governor-General in Council, and the period of limitation in these cases should be extended;

It is hereby further enacted as follows:—

Suits for debt formerly cognizable in Morar Court to be cognizable in Courts at certain other places.

10. (1) Any person who at the date of the cession of the cantonment of Morar was entitled to institute in a Civil Court at Morar a suit of any of the descriptions referred to in articles 50 to 54 (both inclusive) or articles 56 to 64 (both inclusive) or articles 66 to 75 (both inclusive) of the second schedule to the Indian Limitation Act, 1877, or to make to any such Court an application for or with respect to the execution of a decree in any such suit, may institute the suit or make the application in any Civil Court at Jhánsí or Agra, or other place appointed in that behalf by the Governor-General in Council, which would have jurisdiction in the suit to be instituted, or, as the case may be, would have had jurisdiction in the suit in which the decree to be executed was passed, if the cause of action had arisen within the local limits of its jurisdiction.

(2) Notwithstanding anything in any enactment or notification to the contrary, any Civil Court at Jhánsí or Agra, or other place aforesaid, in which any such suit or application as is referred to in sub-section (1) is instituted or made, shall, subject to the provisions of that sub-section, have jurisdiction to dispose of it.

(3) In computing the period of limitation for any suit or application referred to in this section, the time which has elapsed between the date of the cession of the cantonment of Morar and the commencement of this Act shall be excluded.

ACT NO. XVIII. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 24TH SEPTEMBER 1886.

An Act to amend Act XXXVI. of 1858.

WHEREAS it is expedient to amend Act XXXVI. of 1858 *(an Act relating to Lunatic Asylums)*; It is hereby enacted as follows:—

New section inserted after section 6.

1. After section 6 the following shall be inserted, namely:—

Detention of supposed lunatics under observation.

"6A. (1) Where a person found wandering at large who is deemed to be a lunatic, or where a person believed to be dangerous by reason of lunacy, is apprehended and sent to the Magistrate or Commissioner of Police, or where, on report or information that a person deemed to be a lunatic is not under proper care and control, or is cruelly treated or neglected, the Magistrate or the Commissioner of Police sends for him, and then determines to proceed as prescribed in section 4 of this Act, the Magistrate or the Commissioner of Police, on the request of the medical officer, may, by order in writing, authorize the detention of the supposed lunatic for such time, not exceeding ten days, as, in the opinion of the Magistrate or the Commissioner of Police, may be necessary to enable the medical officer to form an opinion on the question whether or not the supposed lunatic is a person with respect to whom a certificate in the form A in the schedule to this Act ought to be signed.

"(2) If the medical officer certifies further detention than has been authorized under sub-section (1) to be necessary to enable him to form his opinion on that question, the Magistrate or the Commissioner of Police may from time to time, by order in writing, authorize such further detention as he deems to be necessary:

"Provided that a supposed lunatic shall not be detained for the purpose of this section for a longer time than fourteen days from the date on which the first order authorizing his detention for that purpose is made.

"(3) The Executive Government may, from time to time, make rules as to the place of detention, and the care and treatment, of supposed lunatics detained under this section."

Amendment of section 9.

2. To section 9 the words "Subject to the provisions of any enactment for the time being in force," shall be prefixed.

New sections to follow section 17.

3. After section 17 the following shall be inserted, namely:—

Provision for provinces not having asylums.

"17A. When an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics under this Act, the Governor-General in Council may from time to time appoint an asylum established in British India beyond those limits to be an asylum to which a Magistrate or Judge exercising jurisdiction within those limits may send lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate.

Use of provincial asylums as presidency asylums for purposes of the Act.

"17B. The Governor-General in Council may from to time, by order, direct, with respect to any part of British India which is not annexed to a presidency, or, being annexed to the presidency of Fort William, Fort St. George, or Bombay, is situated at a greater distance than three hundred miles

1886. Act 19.

from Calcutta, Madras, or Bombay, respectively, that any lunatic asylum in British India named in the order shall be deemed for that part to be a lunatic asylum at the presidency for the purposes of this Act."

ACT NO. XIX. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 24TH SEPTEMBER 1886.

An Act to legalize the discharge by the Lieutenant-Governor of the North-Western Provinces of certain functions of the Governor-General in Council.

WHEREAS certain functions which are by enactments in force in the North-Western Provinces assigned to the Governor-General in Council are in practice discharged by the Lieutenant-Governor of those Provinces, and it is expedient that these functions should continue to be so discharged, and that their discharge in the past should be legalized ;

And whereas the functions assigned to the Governor-General in Council by Regulation LII. of 1803 (*for establishing a Court of Wards in the Provinces ceded by the Nawab Vazir to the Honourable the English East India Company*), which Regulation was extended to the Conquered Provinces by section 29, Regulation VIII. 1805, and to the Province of Benares by section 2, Regulation VI., 1822, were, up to the twenty-second day of December 1873, discharged by the Lieutenant-Governor of the North-Western Provinces, and it is expedient that their discharge by the said Lieutenant-Governor up to that date should be validated ;

It is hereby enacted as follows :—

Transfer to Lieutenant-Governor of certain functions of Governor-General in Council.

1. The sections of the enactments in the schedule to this Act which are specified in the third column of that schedule shall have effect, and, so far as may be necessary to validate anything heretofore done under them by the Lieutenant-Governor of the North-Western Provinces, shall be deemed to have had effect as if the Lieutenant-Governor of the North-Western Provinces were therein referred to instead of the Governor-General in Council.

Validation of exercise by Lieutenant-Governor of functions of Governor-General in Council under Regulation LII. of 1803.

2. Sections 3, 7, 9, and 17 of Regulation LII. of 1803, shall be deemed to have had effect in the North-Western Provinces as if the words "or the Lieutenant-Governor of the North-Western Provinces" had been inserted in those sections after the words "Governor-General in Council" wherever the latter words occur.

THE SCHEDULE.

(*See section 1.*)

(*a*) *Bengal Regulations.*

Number and year.	Subject.	Sections.
1	2	3
V. of 1799 ...	To limit the interference of the Zila and City Courts of Díwáni Adálat in the execution of wills and administration to the estates of persons dying intestate.	7
IX. of 1833 ...	For (*among other matters*) the more extensive employment of native agency in the Revenue Department.	16, 17, and 25.

(*b*) *Act of the Governor-General in Council.*

Number and year.	Subject.	Section.
XII. of 1856 ...	To amend the law respecting the employment of amíns by the Civil Courts in the Presidency of Fort William.	2

ACT NO. XX. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 24TH SEPTEMBER 1886.

An Act to declare the law in force in Upper Burma.

WHEREAS the territories which were formerly governed by King Thebaw have become part of British India;

And whereas it is expedient to declare the law in force in those territories, and for this purpose to distinguish between those territories and the territories which were under the administration of the Chief Commissioner of British Burma on the thirty-first day of December, 1885:

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called "The Upper Burma Laws Act, 1886;

(2) This section, and sections 2, 3, 4, and 5, shall come into force at once, and the rest of the Act shall come into force on such date (hereinafter called the commencement of this Act), within four months from the passing of the Act, as the Local Government may, by notification in the official Gazette, appoint in this behalf.

1886.

Act 20.

Constitution of Province of Burma.

2. (1) The following territories shall constitute a province to be known as Burma, namely:—

(*a*) the territories formerly governed by King Thebaw, which shall be known as "Upper Burma"; and

(*b*) the territories administered by the Chief Commissioner of British Burma on the thirty-first day of December, 1885, which shall be known as "Lower Burma."

(2) The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the official Gazette, transfer any portion of Upper Burma to Lower Burma, or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and on and from that date the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(3) When any portion of Upper Burma is transferred to Lower Burma, the Scheduled Districts Act, 1874, shall, unless the Governor-General in Council otherwise directs, continue to be in force therein.

(4) When any portion of Lower Burma is transferred to Upper Burma, the Governor-General in Council may direct that that Act shall come into force therein.

Division of Upper Burma into divisions, districts, sub-divisions, townships, and circles.

3. The Local Government may, for administrative purposes,—

(*a*) with the previous sanction of the Governor-General in Council, divide Upper Burma into divisions, and each of those divisions into districts, and from time to time vary the limits of those divisions and districts; and

(*b*) of its own authority, divide each of those districts into sub-divisions, each of those sub-divisions into townships, and each of those townships into circles, and from time to time vary the limits of those sub-divisions, townships, and circles.

Construction of expressions "British Burma Gazette," "British Burma," and "Burma" in existing enactments.

4. Where in any enactment in force at the passing of this Act in the territories referred to in section 2, sub-section (1), clause (*b*), there occurs the expression "British Burma Gazette" or the expression "British Burma" or "Burma" (except where the expression "Burma" occurs in the Petroleum Act, 1886, section 3), it shall be construed as referring to the Burma Gazette or to Lower Burma, as the case may be.

Repeal of enactments.

5. The enactments specified in the first schedule to this Act, having been rendered unnecessary by the incorporation of Upper Burma in British India, are repealed to the extent mentioned in the third column of the schedule.

Law in force in Upper Burma exclusive of the Shan States.

6. (1) Subject to the provisions of any Regulation under the Statute 33 Victoria, chapter 3, so much of each of the enactments specified in the second schedule to this Act as is at the commencement of this Act in force in any part of Lower Burma which is not included in a scheduled district as defined in the Scheduled Districts Act, 1874, shall be deemed to be in force in Upper Burma generally, or in the Town of Mandalay only, according as the enactment is specified in the First or Second Part of the schedule.

(2) An enactment not specified in that schedule shall not be deemed to be or to have been in force in Upper Burma or in any part of Upper Burma unless it is expressed, by special mention of Upper Burma or a part of Upper

Burma, to extend thereto, or after the commencement of this Act is extended thereto in exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, or by any other enactment for the time being in force.

(3) The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, declare that any enactment which is specified in that schedule, or which may hereafter be extended in exercise of any such powers as aforesaid, shall no longer be in force in Upper Burma or in any part of Upper Burma specified in the notification.

(4) The limits of the Town of Mandalay for the purposes of this Act shall be the limits for the time being of the local area subject to the ordinary original jurisdiction of the Civil Court of Mandalay.

(5) This section does not extend to the Shan States.

Modification of certain enactments in force in Upper Burma exclusive of the Shan States.

7. (1) The following enactments specified in the First Part of the second schedule to this Act shall, in Upper Burma, be read subject to the following modifications, namely:—

(*a*) in Act VIII. of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*), for the last sixteen words of section 4, the words "or of any person or property exempted by order of the Local Government from payment of tolls" shall be substituted;

(*b*) in Act V. of 1861 (*an Act for the Regulation of Police*), to section 2 the words "All Thugyis and Myothugyis for the time being holding office shall be police-officers, and shall be deemed to have been formally enrolled under this Act" shall be added;

(*c*) in Act VI. of 1864 (*an Act to authorize the punishment of whipping in certain cases*), after section 5 the section and schedule in the third schedule to this Act shall be added;

(*d*) in the Indian Evidence Act, 1872, after the words "police-officer" in section 25 the words "who is not a Magistrate" shall be inserted;

(*e*) in the Dramatic Performances Act, 1876, the words "within such area" shall be omitted from the third paragraph of section 10, and for the first two paragraphs of that section the following shall be substituted, namely:—

"No dramatic performance shall take place except under a license granted by the District Magistrate or such officer as the District Magistrate may appoint in this behalf.

"Any person who promotes or takes part in any dramatic performance in contravention of the foregoing portion of this section shall be punishable, on conviction before a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

(2) This section does not extend to the Shan States.

Law in the Shan States.

8. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the official Gazette, from time to time extend to all or any of the Shan States any enactment which is in force in any part of Upper Burma at the date of the extension, and at any time withdraw all or any of those States from the operation of any enactment so extended.

(2) Unless and until extended under sub-section (1), an Act of the Governor-General in Council shall not be in force in any Shan State.

1886,
Act 20.

(3) The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the official Gazette, declare what territories constitute the Shan States for the purposes of this and the two last foregoing sections.

Power for Courts to construe enactments with necessary alterations.

9. For the purpose of facilitating the application of any enactment for the time being in force in Upper Burma, any Court in Upper Burma may construe the enactment with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court.

Validation of acts done after 17th November 1885.

10. All acts of executive authority, proceedings, decrees, and sentences, which have been done, taken, or passed in Upper Burma since the seventeenth day of November 1885, and before the commencement of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Local Government, shall be as valid and operative as if they had been done, taken, or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees, or sentences, were not done, taken, or passed in accordance with law.

Validation of rules made before commencement of this Act.

11. All rules, orders, or instructions made or issued after the seventeenth day of November 1885, and before the commencement of this Act, for the guidance of officers engaged in the administration of Upper Burma, shall be deemed to have had the force of law, and shall, so far as they are consistent with this Act, continue to have the force of law until they are withdrawn, or are superseded by any Act of the Governor-General in Council, or by any Regulation under the Statute 33 Victoria, chapter 3, or by any enactment extended to Upper Burma, or by any rules, orders, or instructions made or issued under any such Act, Regulation, or enactment.

THE FIRST SCHEDULE.

(*See section 5.*)

ENACTMENTS REPEALED.

Number and year.	Subject	Extent of repeal.
1	2	3
Act XXX of 1854 ...	An Act to provide for the levy of Duties of Customs in the Arakan, Pegu, Martaban, and Tenasserim Provinces.	So much as has not been repealed.
Act IV. of 1863 ...	An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burma.	So much as has not been repealed.
Act XII. of 1864 ...	An Act to give further effect to the provisions of Act IV of 1863.	So much as has not been repealed.
Act XXIII. of 1872...	An Act for regulating the re importation into British territory of goods cleared at Rangoon for the territory of the King of Ava.	The whole.

THE SECOND SCHEDULE.

(*See section 6*)

FIRST PART.

Enactments declared in force in Upper Burma generally.

Number and year.	Subject.
BENGAL REGULATIONS.	
XI of 1812	Removal of Foreign Emigrants.
III of 1818	State Prisoners.
ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.	
V of 1843	Slavery.
XVIII of 1850	Protection of Judicial Officers.
XIX of 1850	Apprentices.
XXXIV of 1850	State Prisoners
XXXVII. of 1850	Inquiries into Behaviour of Public Servants.
VIII of 1851	Tolls on Roads and Bridges

1898.
Act 20.

THE SECOND SCHEDULE—(*continued*).

FIRST PART—(*continued*).

Enactments declared in force in Upper Burma generally—(continued).

Number and year.	Subject.
ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(*continued*).	
XXX. of 1852 ...	Naturalization of Aliens.
II. of 1853 ...	Burdens on Land.
XII. of 1855 ...	Executors and Administrators.
XIII. of 1855 ...	Compensation for death caused by actionable wrong.
XXIV of 1855	Penal Servitude.
XI. of 1857 ...	State Offences.
III. of 1858 (s. 5)	State Prisoners.
XXXV. of 1858	Lunatics.
XXXVI. of 1858	Lunatic Asylums.
IX. of 1859 (except s. 18, last para.).	Forfeited Property.
XV. of 1859 ...	Inventions.
IX. of 1860 ...	Disputes between Workmen and Employers.
XXVII. of 1860	Collection of Debts on Successions.
XLV. of 1860 ...	Penal Code.
V. of 1861 ...	Police.
III. of 1864 ...	Foreigners.
VI. of 1864 (except s. 6)	Whipping.
III. of 1865 ...	Carriers.
X. of 1865 ...	Succession.
XIV. of 1866 ...	Post Office.
III. of 1867 ...	Public Gambling.
XXV. of 1867 ...	Printing Presses and Newspapers.
XXXII. of 1867	Chief Commissioners' Powers.
I. of 1868 ...	General Clauses.
IV. of 1869 ...	Divorce.
V. of 1869 ...	Indian Articles of War.
XV. of 1869 ...	Prisoners' Testimony.
XX. of 1869 ...	Volunteers.
VII. of 1870 ...	Court-fees.
XX. of 1870 ...	Court-fees Act Amendment.
XXIII. of 1870	Coinage.
XXVI. of 1870	Prisons.
XXVII. of 1870	Penal Code Amendment.
I of 1871 ...	Cattle-trespass.
V. of 1871 ...	Prisoners.
XXIII. of 1871	Pensions.
I. of 1872 ...	Evidence.
XIII. of 1872 ...	Patterns and Designs.
XV. of 1872 ..	Christian Marriage.
XVIII. of 1872	Evidence Act Amendment.
XIX. of 1872 ...	Penal Code Amendment.
II. of 1873 ...	Burma Ferries.
X. of 1873 ...	Oaths
XIV. of 1873 ...	Lunatic Soldiers.
IV. of 1874 ...	Foreign Recruiting.
IX of 1874 ...	European Vagrancy.
XIV. of 1874 ...	Scheduled Districts.
V of 1875 ...	Native Soldiers.

THE SECOND SCHEDULE—(*concluded*).

FIRST PART—(*concluded.*)

Enactments declared in force in Upper Burma generally—(concluded.)

Number and year.	Subject.
ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(*concluded.*)	
IX. of 1875	Majority.
XIII. of 1875	Probates.
XI. of 1876	Presidency Banks.
XIX. of 1876 (except s. 12) ...	Dramatic Performances.
I. of 1877 (s. 9)	Specific Relief.
II. of 1877	Probates.
XI. of 1877	Military Lunatics.
XV. of 1877	Limitation.
VI. of 1878	Treasure Trove.
XI. of 1878	Arms.
I. of 1879	Stamps.
III. of 1879 (ss. 2, 4 and 8) ...	Destruction of Records.
IV. of 1879	Railways.
V. of 1879	Presidency Banks Act Amendment.
XXI. of 1879	Extradition.
III. of 1880	Cantonments.
V. of 1881 (s. 153)	Probate and Administration.
III. of 1882 (s. 3)	Seditious Publications.
VI. of 1882	Companies.
VIII. of 1882	Penal Code Amendment.
IX. of 1882	Prisoners Act Amendment.
XX. of 1882	Paper Currency.
IV. of 1883	Railways.
XIX. of 1883	Land Improvement Loans.
XVI. of 1884	Burma Gaming.
XIII. of 1885	Telegraphs.
X. of 1886 (ss. 21-25 both inclusive).	Penal Code and Prisoners Act Amendment.
XIII. of 1886	Securities.

SECOND PART.

Enactments declared in force in the Town of Mandalay only.

Number and year.	Subject.
ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.	
XI. of 1865	Mufassal Small Cause Courts.
IX. of 1872	Contracts.
I. of 1877	Specific Relief.
V. of 1881	Probate and Administration.
XXVI. of 1881	Negotiable Instruments.
XIV. of 1882	Code of Civil Procedure.
II. of 1885	Negotiable Instruments Act Amendment.
IV. of 1886	Contract Act Amendment.

1886.
Act 20.

THE THIRD SCHEDULE.

(*See section 7, sub-section (1), cl. (c).*)

ADDITION TO ACT VI. OF 1864.

"6. (1) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the schedule to this Act, or of any offence which the Local Government, with the previous sanction of the Governor-General in Council, may add to that schedule, may be punished with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

"(2) The Local Government may at any time suspend the operation of this section in whole or in part in any district or part of a district, and, with the previous sanction of the Governor-General in Council, remove the suspension of its operation.

"THE SCHEDULE.

(*See section 6, sub-section 1.*)

Section of Indian Penal Code.	Offence.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.

Section of Indian. Penal Code.	Offence.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.
440	Mischief committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c.
	Abetment of any of the foregoing offences.
	Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences.

ACT NO. XXI. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 24TH SEPTEMBER 1886.

An Act to declare certain allowances collectively known as Oudh Wasikas to be pensions within the meaning of the Pensions Act, 1871.

WHEREAS, on the death of Her Highness the Bahu Begam, His Highness the Nawáb Vazir of Oudh delivered to the British Government a sum of money with intent that the interest accruing thereon should, in compliance with the wishes of Her Highness the Bahu Begam as expressed in a Deed of Deposit executed by her in the year 1813, be applied by the British Government to the payment of certain pensions, which pensions are known as the Amanat Wasikas;

And whereas in the year 1813 the said Government guaranteed the payment of certain pensions to persons connected with the Khás Mahál of Her Highness the Bahu Begam, which pensions are known as the Zamanat Wasikas;

And whereas, in the years 1814, 1825, and 1838, loans, known respectively as the 1st, 3rd, and 6th Oudh loans, were made by the Rulers of Oudh

to the Honourable the East India Company with intent that the interest accruing thereon should be applied by the said Government to the payment of certain pensions, which pensions are known as the Loan Wasikas;

And whereas the Amanat, Zamanat, and Loan Wasikas, have been regarded as pensions to which the Pensions Act, 1871, applies, and rules respecting them have been made and published under section 14 of that Act;

And whereas, since the making and publication of the rules, doubt has been expressed whether the said Wasikas are pensions within the meaning of the Pensions Act, 1871;

And whereas it is expedient to declare them to be pensions within the meaning of that Act;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Oudh Wasikas Act, 1886.

Application of Act XXIII. of 1871 to Wasikas.

2. The allowances respectively known as the Amanat Wasikas, the Zamanat Wasikas, and the Loan Wasikas, are persions within the meaning of the Pensions Act, 1871, and that Act shall apply to them as if they were pensions of the classes referred to in sections 4 and 11 of that Act.

ACT NO. XXII. OF 1886.

Received the G.-G.'s Assent on the 1st October 1886.

An Act to consolidate and amend the law relating to Rent in Oudh.

Whereas it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith; It is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short title, extent, and commencement.

1. (1) This Act may be called the Oudh Rent Act, 1886.

(2) Save as provided thereby, it shall extend to the territories for the time being comprised in the Province of Oudh; and

(3) It shall come into force on the first day of January, 1887.

(4) Any power conferred by this Act on the Chief Commissioner to make rules, or to issue orders, may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

Repeal.

2. (1) The Oudh Rent Act, XIX. of 1868, is hereby repealed, but all notifications published and rules made under that Act shall, so far as may be, be deemed to have been published and made under this Act.

(2) The following enactments also are hereby repealed, namely:—

(*a*) section 40 of the Oudh Civil Courts Act, XXXII. of 1871;

(*b*) sections 23 and 24 of the Oudh Laws Act, XVIII. of 1876; and

(*c*) section 1 of Act XIV. of 1878.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Court" means any judicial officer presiding in a Court of Revenue for the disposal of matter under this Act:

(2) "suit" means a suit under this Act:

(3) "land" includes the ungathered produce of land, whether spontaneous or not, and whether growing in earth or in water, but shall not include land for the time being occupied by dewelling-houses or manufactories, or appurtenant thereto, so long as that land is not let to agricultural tenants:

(4) "revenue" means money payable to the Government on account of land: in sections 34 and 35 it means land-revenue only:

(5) "rent" means the money, or the portion of the produce of land, payable on account of the use or occupation of land, or on account of any right in land, or on account of the use of water for irrigation:

(6) "proprietor" does not include an under-proprietor; and where there are two private rights of property, one superior and the other subordinate, in the same land, "proprietor" means the holder of the superior right only:

(7) "proprietary right" means a proprietor's right in land:

(8) "under-proprietor" means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent;

(9) "under-proprietary right" means an under-proprietor's right in land:

(10) "tenant" means any person, not being an under-proprietor, who is liable to pay rent; and in the following portions of this Act, namely, sections 13, 14, 15, 17, 18, 29, 53, 54, 55, sub-sections (1) and (2), 56, 59, 60, 61, 62, 108, 126, and 138, but in no others, the expression "tenant" shall be held to include a thíkadár or person to whom the collection of rents in a village or portion of a village has been leased by the landlord:

(11) "landlord" means any person to whom an under-proprietor or a tenant is liable to pay rent:

(12) "representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person, and includes the guardian of a minor and the legal curator of a lunatic or idiot:

(13) "prescribed" means prescribed from time to time by the Chief Commissioner by rules under this Act;

(14) "registered" means registered under any Act for the time being in force for the registration of documents;

(15) "signed" includes marked, when the person making the mark is unable to write his name: and

(16) "value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

Restrictions on exclusion of Act by agreement.

4. (1) Nothing in any contract made between a landlord and a tenant before or after the passing of this Act shall entitle a landlord to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act.

(2) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall take away or limit the right of a tenant, as provided by this Act, to make improvements and claim compensation for them.

(3) Where land not previously cultivated has been or is hereafter let by a landlord to a tenant, either after being reclaimed by or at the expense of

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the landlord or for the purpose of being reclaimed by the tenant, nothing in this section shall be construed to affect the conditions of any contract relating to that land until fourteen years have elapsed from the date on which the land was first brought under cultivation.

(4) Where land has remained uncultivated during a period of seven years, it shall, for the purposes of the last foregoing sub-section, be deemed to have not been previously cultivated.

(5) This section does not apply to tenants having a right of occupancy or to sub-tenants.

CHAPTER II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS, AND TENANTS.

Right of Occupancy.

Tenants having a right of occupancy.

5. Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for those lands according to the provisions of this Act, have a right of occupancy under the following rule :—

Every such tenant who, within thirty years next before the thirteenth day of February, 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate, shall be deemed to possess a heritable but not a transferable right of occupancy in the land which he cultivated or held in such village or estate on the twenty-fourth day of August, 1866 : provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February, 1856 : provided also that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Nothing contained in the former part of this section shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty-second day of July, 1868.

Saving of power to confer right of occupancy.

6. Nothing in the last foregoing section shall be construed to restrict the power of a landlord to confer by registered document on any persons other than those mentioned in that section a right of occupancy in the lands which they hold or cultivate.

Loss of right of occupancy.

7. If a tenant having a right of occupancy is ejected, in accordance with the provisions of section 52, from the land in which he possesses the right, he shall thereupon lose his right of occupancy in that land.

Tenants' Right to Pattas.

Tenant's right to patta.

8. Every tenant is entitled to receive from his landlord a patta or memorandum of the terms of the tenancy, signed by the landlord or his authorized agent, and containing the following particulars, namely :—

(*a*) the quantity of land and, where the fields comprised in the patta have been numbered in a Government survey, the number of each field ;

(b) the term for which the tenancy is to run;

(c) the amount of rent payable;

(d) the instalments in which, and the times at which, that amount is to be paid;

(e) any special conditions not inconsistent with the provisions of this Act; and

(f) if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner, and place of delivery.

Patta to which tenant having right of occupancy is entitled.

9. Tenants having a right of occupancy are entitled to receive pattas at rates of rent determined in accordance with the provisions of Chapter IV., Part A, of this Act.

Patta to which tenant not having right of occupancy is entitled.

10. Tenants not having a right of occupancy are entitled to pattas for the terms and at the rates prescribed in Chapter IV., Part B, of this Act.

Landlords' Right to Counterparts.

Landlord's right to counterpart.

11. Every landlord who grants a patta is entitled to receive from the tenant a counterpart signed by or on behalf of the tenant.

Arrears of Revenue or Rent.

What to be deemed an arrear of revenue or rent.

12. Any instalment of revenue or rent which is not paid on or before the day when it becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be:

Provided that, unless the proprietor and under-proprietor have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which the rent is payable is situate, and to be payable in the same number of instalments as the revenue; and the amount of each instalment of the rent shall bear the same proportion to the whole of the rent payable for the year as the amount of each instalment of the revenue bears to the whole of the revenue payable for the year.

Receipts.

Receipts for rent.

13. (1) Every receipt for rent shall specify the year or years on account of which the rent has been paid; and any refusal to make that specification shall be held to be a withholding of a receipt.

(2) If a receipt for rent paid by an under-proprietor or tenant is withheld from him without sufficient cause, he may recover compensation from the landlord up to an amount not exceeding that of the rent paid.

Deposit of Revenue or Rent in Court without Suit.

Power to pay into Court amount of revenue or rent due.

14. (1) If a co-sharer, under-proprietor, or tenant, from whom any revenue or rent is due in respect of the land held or cultivated by him, tenders the full amount of that revenue or rent at the usual place of payment to the person authorized to receive it, and that person does not accept the

amount and forthwith give a receipt in full therefor, the co-sharer, under-proprietor, or tenant, may, without any suit having been instituted against him, deposit the amount in Court to the credit of the person authorized to receive it.

(2) The deposit shall, so far as regards the co-sharer, under-proprietor, or tenant, and all persons claiming through or under him, operate as a payment then made to the lambardár or landlord of the amount so deposited.

Procedure on making and withdrawing such payment.

15. (1) The Court shall receive the deposit on the written application of the co-sharer, under-proprietor, or tenant, or his recognized agent.; and on the applicant making a declaration in the form set forth in Schedule A to this Act, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit.

(2) The declaration shall be verified in the manner prescribed for the verification of plaints by section 52 of the Code of Civil Procedure, and shall be signed by the person making it.

(3) Upon receiving the deposit, the Court shall issue to the person to whose credit it has been paid a notice in the form set forth in Schedule B to this Act.

(4) The notice shall be served by the proper officer without the payment of any fee.

(5) If the person to whose credit the deposit has been paid, or his recognized agent, appears and applies for it, the Court shall cause it to be paid to him.

(6) The application under sub-section (5) may be on plain paper.

Limitation for suits for balance of revenue or rent.

16. Where a deposit has been made under the provisions of the two last foregoing sections, a suit shall not be brought against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless the suit is instituted within six months from the date of the service of the notice mentioned in section 15.

Illegal Enforcement of Payment of Rent.

Compensation to under-proprietor or tenant for illegal enforcement of payment.

17. (1) If payment of rent or of any sum in excess of the rent legally claimable is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for the illegal enforcement of the payment, the Court may award to him compensation, not exceeding the sum of two hundred rupees, in addition to any amount for which it makes a decree in respect of the payment itself.

(2) An award of compensation under sub-section (1) shall not bar any prosecution to which the person illegally enforcing the payment may be liable under any law for the time being in force.

Abatement of Rent.

Suit for abatement of rent by under-proprietor or tenant.

18. Save as provided by section 29, sub-section (4), a suit for an abatement of the rent of a holding shall not be brought by an under-proprietor or tenant except on the ground that the area of the holding has diminished, or on some ground specified in a lease, agreement, or decree under which he holds:

Provided that, if the under-proprietor holds a sub-settlement in a revenue-paying estate, an abatement shall not be allowed to the under-proprietor unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

Remission of Rent.

19. (1) Notwithstanding anything in the last foregoing section, a Court, when it makes a decree for an arrear of rent, may, with the previous sanction of the Deputy Commissioner, allow such remission from the rent payable by any under-proprietor or tenant as appears equitable, if the area of the land in his occupation has been materially diminished by diluvion or otherwise, or if the produce of that land has been diminished by drought, hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be paid.

Remission of rent by order of Court.

(2) Where a remission of rent under this section causes a material diminution of the assets of the landlord in the village in which the remission is given, the revenue-authorities shall take into consideration any claim made by the landlord for a remission of revenue.

(3) A remission shall not be allowed under this section to an under-proprietor holding a sub-settlement, or to a tenant having a right of occupancy, unless a remission of revenue has been allowed on the same ground and by competent authority in the same village.

Relinquishment of Land.

20. (1) A tenant shall continue liable for the rent of the land in his holding unless on or before the fifteenth day of March in any year he gives to the landlord or to the recognized agent of the landlord notice in writing of his desire to relinquish that land, and relinquishes it accordingly.

Relinquishment of land by tenant.

(2) If the landlord or his recognized agent refuses to receive the notice or to sign and deliver a receipt therefor, the tenant may, before the latest date prescribed for giving the notice, apply on plain paper to the tahsíldár or proper officer, and written notice of the desire of the tenant to relinquish the land shall then be served on the landlord at the expense of the tenant.

(3) A tenant cannot, without the consent of his landlord, relinquish a part only of his holding.

(4) Nothing in this section shall entitle a tenant holding under a registered document under section 69 to relinquish his holding otherwise than in accordance with the terms of that document.

21. (1) If a tenant abandons his holding without informing his landlord, and without arranging for the cultivation of the holding, the landlord may, at any time after the fifteenth day of May, enter on the holding.

Abandonment of holding.

(2) Before a landlord enters on a holding under sub-section (1), he shall file a notice in the prescribed form at the office of the tahsíldár for service on the tenant, stating that he has treated the holding as abandoned, and is about to enter on it accordingly.

(3) When a landlord enters on a holding under sub-section (1), the tenant may institute a suit under this Act to recover possession of the holding, and the Court shall, on being satisfied that the tenant did not voluntarily abandon the holding, order recovery of possession on such terms with respect to the time of delivery of possession, the payment of arrears of rent,

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if any, and, if injury has been caused by the wrongful act, neglect, or default of any party to the proceeding, with respect also to the payment of compensation by that party, as to the Court may seem just.

Compensation for Tenants' Improvements.

Tenant's right to compensation for improvements.

22. (1) If a tenant, or a person from whom he has inherited, has made any such improvement on his holding as is hereinafter in this chapter mentioned, neither he nor his representative shall be ejected from the holding unless and until he or his representative, as the case may be, has received compensation for the improvement:

Provided that compensation shall not be payable for any improvement made thirty years or more before the date on which the ejectment is to take effect.

(2) An improvement made by a tenant for the benefit of his holding on land belonging to the person who is entitled to receive the rent of the holding shall, for the purposes of this section, be deemed to have been made on the holding of the tenant.

Landlord's consent to tenant's improvement.

23. Except as provided in the next following section, a tenant shall not be entitled to claim compensation for an improvement made subsequently to the passing of this Act without the written consent of the landlord.

Reference to Deputy Commissioner when consent is refused.

24. (1) If a tenant applies for the written consent of his landlord to the making of an improvement on his holding, and the landlord omits or refuses to grant it, the tenant may apply to the Deputy Commissioner for permission to make the improvement.

(2) When an application is made to the Deputy Commissioner under sub-section (1), he shall take into consideration any objections which the landlord may have to urge on either of the following grounds, namely:—

(*a*) that the improvement is too costly or is unsuitable to the nature of the tenant's holding, or

(*b*) that the landlord is himself prepared to make the improvement,

and shall then either grant the permission on such conditions as he considers fair and equitable, or refuse the application.

Registration of outlay on improvements.

25. (1) If either the landlord or the tenant desires the amount expended on an improvement executed with the permission of the Deputy Commissioner under the last foregoing section to be determined and registered, the Deputy Commissioner shall, on application made to him for the purpose, determine the amount of the outlay, and enter it in a register kept in the prescribed form.

(2) The entry in the register shall be conclusive proof of the amount of the outlay in any subsequent proceedings respecting the cost of the improvement.

"Improvement" defined.

26. The word "improvement," as used in this Act, means a work by which the annual letting value of land has been, and at the time of a demand for compensation continues to be, increased, and comprises—

(*a*) the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods; the construction of wells; the reclamation of waste land and jungle; and other works of a like nature:

(b) the renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not required for the maintenance thereof and increase durably their value.

Principle on which compensation is to be estimated.

27. In estimating the compensation to which a tenant is entitled for an improvement regard shall be had—

(a) to the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement;

(b) to the condition of the improvement and the probable duration of its effects;

(c) to the labour and capital required for the making of such an improvement;

(d) to any reduction or remission of rent or any other advantage given by the landlord to the tenant in consideration of the improvement; and

(e) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, to the length of time during which the tenant has had the benefit of the improvement.

Modes of making compensation.

28. When a Court has assessed the amount of the compensation due to a tenant, it may, if both landlord and tenant desire that the compensation assessed, instead of being paid wholly in money, shall be made wholly or partly in some other way, proceed to give judgment according to the terms agreed upon between them.

Improvement by the landlord.

29. (1) A landlord may make an improvement on the holding of a tenant not having a right of occupancy with or without the consent of the tenant.

(2) A landlord intending to make an improvement shall, if any part thereof is to be made on the holding of any such tenant, give notice of his intention to the tenant through the tahsíldár.

(3) A landlord making an improvement on the holding of any such tenant shall be liable to compensate the tenant for any loss which he may cause to the tenant when making it.

(4) If the effect of the improvement is to impair the productive powers of the holding, the tenant shall, in addition to any compensation which may be awarded to him under sub-section (3), be entitled to such abatement of his rent as to the Court seems just.

(5) A landlord may not make an improvement on the holding of a tenant with a right of occupancy without the consent of the tenant.

Survey and Measurement.

Landlord's right to enter and measure lands.

30. A landlord and his agents and surveyors may at all reasonable times enter upon any land comprised in his estate for the purpose of surveying and measuring the land.

CHAPTER III.

Payment of Rent in Kind.

Division or appraisement of produce.

31. Where rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other proceeding of a similar nature requiring the presence of both the tenant and the landlord either personally or by recognized agent, if either party neglects to be present at the proper time, or if a dispute arises between the parties regarding the division, estimate, appraisement, or proceeding, either

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party may present an application to the Court, requesting that a proper officer be deputed to make the division, estimate, or appraisement, or conduct the proceeding.

Procedure in case of dispute.

32. (1) On receiving the application, the Court shall issue a written notice to the other party to atend at a time and place specified in the notice, and shall depute an officer before whom the division, estimate, or appraisement, shall be made, or the proceeding conducted.

(2) The award of that officer in respect of the division, estimate, appraisement, or proceeding, shall be final, unless, within one month from the date thereof, either party institutes a suit to set it aside.

CHAPTER IV.

ENHANCEMENT AND FIXING RATES OF RENT.

Part A.—Tenants with Right of Occupancy.

Enhancement of rent of tenant with right of occupancy.

33. (1) A tenant having a right of occupancy in any land shall not, in case of dispute as to the rent to be paid in respect of the land, be liable to an enhancement of the rent except in pursuance of a decree made under this Act on some one of the following grounds, namely :—

1st ground.—That the rate of rent paid by him is below the rate of rent usually paid, by the same class of tenants having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding that rate.

2nd ground.—That the rate of rent paid by him is more than twelve-and-a-half per cent below the rate of rent usually paid, by tenants of the same class not having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding that rate, less twelve-and-a-half per cent.

3rd ground.—That the quantity of land held by him exceeds the quantity for which he has previously paid rent.

Rule.—In this case the Court shall decree rent for the land in excess, at rates to be fixed by the first or the second of the rules contained in this section, as the case may be.

(2) Nothing in sub-section (1) shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty-second day of July, 1868.

Term for re-enhancement after decision fixing rent under section 33.

34. After a decision has been passed in accordance with the last foregoing section, a suit shall not lie for re-enhancement of the rent until the expiration of five years from the date of the decision, except on the 3rd ground mentioned in that section, or, in the case referred to in the next following section, until, by re-assessment within the term of five years, the revenue of the land has been increased.

Enhancement on re-assessment of revenue.

35. If, on a re-assessment of the revenue, the rent of the tenant cannot be enhanced under section 33 by reason of the absence of the grounds therein mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double

the average amount of the revenue imposed at the re-assessment upon land of a similar description and with similar advantages held by tenants of the same class in the same village.

Part B.—Other Tenants.

Tenant in occupation at passing of Act: the conditions of his statutory tenancy.

36. Every tenant, not being a tenant with a right of occupancy or a sub-tenant, shall be entitled to retain possession of the holding occupied by him at the time of the passing of this Act, at the rent then payable by him, for a period of seven years from the date of the last change in his rent or of the last alteration in the area of the holding, or, where no such change or alteration has taken place, from the date on which the tenant was admitted to the occupation of the holding.

Tenant admitted after passing of Act: the conditions of his statutory tenancy.

37. Every such tenant who may be admitted to the occupation of a holding after the passing of this Act shall be entitled to retain the same for a period of seven years from the date of his admission at a rent agreed upon with the landlord in accordance with the provisions of this Act; and every such tenant, in the area of whose holding or in the amount of whose rent any change is made by the landlord subsequently to the passing of this Act, shall be deemed to be admitted to the occupation of a holding within the meaning of this section.

Explanation I.—"Holding" means a parcel or parcels of land held by a tenant and forming the subject of a separate engagement. The engagement may be express or implied.

Explanation II.—This section and section 36 have effect subject to the provisions of section 4, sub-sections (3) and (4), relating to land not previously cultivated, and subject also to section 157, excluding certain classes of land from the operation of certain sections of this Act.

Enhancement of rent of tenant not having right of occupancy and not being a sub-tenant.

38. (1) A landlord may enhance the rent of a tenant to whom section 36 or section 37 applies, either by contract in accordance with the provisions of this section or by notice as hereinafter provided.

(2) Subject to the provisions of sections 49 and 50, the enhancement shall not in any case exceed one anna in the rupee, or six-and-a-quarter per cent. on the annual rent payable by the tenant at the time when the contract was made or the notice was issued:

(3) Provided that, where rent is paid in kind, the proportion of produce paid as rent by a tenant shall not be subject to increase except in accordance with an established custom of the pargana in which the land is situate.

Enhancement by notice.

39. If a landlord desires that the rent of a tenant to whom section 36 or section 37 applies be enhanced on the expiration of the term of seven years referred to in section 36 or section 37, as the case may be, or at any time during the currency of that term in the case mentioned in section 50, he may cause a notice to that effect to be served under section 42.

Time for service of notice of enhancement.

40. (1) A notice whereby enhancement is claimed on account of the expiration of the period of the tenancy shall not be served before the commencement of the last year of the tenancy.

(2) A notice of enhancement on account of an improvement made or acquired by the landlord may be served at any time during the currency of the tenancy.

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Contents of the notice.

41. The notice shall be written in Hindí and Urdú, and shall specify the land, the amount of the present rent, and the amount of the enhancement, and require the tenant, if he refuses to pay the enhancement, to vacate the land by the fifteenth day of May next following, or to institute a suit in the proper Court to contest the notice of enhancement within thirty days from the date of the service thereof.

Service of the notice.

42. On the application of the landlord to the tahsíldár or other prescribed officer the notice shall be served by the officer on or before the fifteenth day of February at the expense of the landlord.

Grounds on which tenant may contest his liability to enhancement.

43. The tenant may institute a suit to contest the notice of enhancement, within thirty days from the date of the service thereof, on any of the following grounds, namely :—

(*a*) that he has a right of occupancy in the land specified in the notice;

(*b*) that he holds under a special agreement or decree of Court or lease under the terms of which his rent is not liable to enhancement;

(*c*) that the enhancement claimed is in excess of the rate authorized by law;

(*d*) that seven years will not have elapsed on the fifteenth day of May next following, since the date of any such change of rent or alteration of area as is under section 36. or section 37. equivalent to an admission to the occupation of a holding, or, where no such change or alteration has taken place, since the date on which he was admitted to the occupation of the holding;

(*e*) that the notice has not been served in the manner required by this Act;

(*f*) that, where the enhancement claimed is on account of an improvement, the amount claimed is excessive.

Tenant's liability for enhanced rent.

44. (1) If the tenant does not contest the notice of enhancement, and remains in possession of the land after the fifteenth day of May next following the date of the service of the notice, he shall become liable for the enhanced rent.

(2) If the tenant contests the notice, and the validity thereof is maintained by the Court in whole or in part, he shall, if he remains in possession of the land after the fifteenth of May next following the date of the service of the notice, become liable for the enhanced rent to the extent to which the Court has maintained the validity of the notice.

Commencement of fresh statutory period.

45. If the tenant, by remaining in possession of the land under the last foregoing section, becomes liable for enhanced rent, he shall be entitled to hold the land at that rent for a further period of seven years.

Vacating tenant's right to compensation for improvements.

46. If the tenant refuses to accept the enhancement claimed or decreed, and vacates the holding, he shall be entitled to recover by separate suit from the landlord compensation for any improvements made by him on the holding.

Rent of tenant succeeding to vacant holding.

47. (1) Except in the cases mentioned in sections 49 and 50, the rent of a tenant admitted to the occupation of any land the tenancy of which has determined according to the provisions of this Act shall not exceed by more than one anna in the

rupee, or six-and-a-quarter per cent., the rent payable by the tenant immediately preceding him.

(2) In the case of a tenant admitted to the occupation of a holding of which the rent has been, immediately before his admission, paid in kind, the rent payable shall, subject to any established custom of the pargana in which the holding is situate, be either the rent payable by the tenant immediately preceding him, or a sum which, subject to the provisions of sections 49 and 50, shall not exceed by more than six-and-a-quarter per cent. the equivalent of the value of the produce annually paid as rent on the average of the three years immediately preceding.

Rights of the heir of a deceased tenant.

48. (1) The heir of a tenant who dies during the currency of the tenancy of a holding shall be entitled to retain occupation of the holding at the rent payable by the deceased for the unexpired portion of the period for which the deceased tenant might have held without liability to enhancement or ejectment, and to receive compensation under the provisions of this Act for improvements, if any, made on the holding by himself or his predecessor in interest, but shall not be entitled to a renewal of the tenancy.

(2) Subject to any rights which he may have under section 22 as a representative of the deceased, a collateral relative who did not, at the date of the death of the deceased, share in the cultivation of the holding, shall not be deemed to be an heir of the deceased within the meaning of this section.

Rent of tenant succeeding to a holding vacated by the death of the previous tenant.

49. The rent of a tenant admitted to the occupation of any land the tenancy of which has ceased in consequence of the death of a previous tenant, or of the ejectment of a thíkadár or mortgagee from land of which he has taken cultivating possession during the period of his thíka or mortgage, shall be such amount as may be agreed upon between him and the landlord.

Enhancement of rent for improvements made or acquired by landlord.

50. (1) Nothing in the foregoing sections shall bar the right of a landlord to enhancement of rent on the ground that the productive powers of the land held by the tenant have been increased by an improvement which has been made by, or at the expense of, the landlord, or for which, during the currency of the tenancy, compensation has been accepted from the landlord by the owner of the improvement, or, on the expiration of the tenancy, compensation has been paid in accordance with the determination of a Court under this Act.

(2) Where an enhancement is claimed on the ground of any such improvement, the Court, in determining the claim, shall have regard to—

(*a*) the increase in the productive powers of the land caused, or likely to be caused, by the improvement;

(*b*) the cost of the improvement; and

(*c*) the cost of the cultivation required for the utilising of the improvement.

Power for Local Government to vary the limit of enhancement of rent.

51. Notwithstanding anything in the foregoing sections, the Chief Commissioner may, by notification in the local official Gazette, vary from time to time, within periods of not less than seven years, the limits of the enhancement to which tenants to whom section 36 or section 37 applies are liable in any local area specified in the notification.

CHAPTER V.

EJECTMENT.

Tenants holding on special terms.

Ejectment of tenants holding on special terms.

52. (1) A tenant having a right of occupancy in any land, or holding any land under a special agreement or decree of Court, shall not be ejected from that land otherwise than in execution of a decree for ejectment:

Provided that the decree for ejectment shall not be made, unless, at the date of that decree, a decree against the tenant for an arrear of rent in respect of the land has remained unsatisfied for fifteen days or upwards.

(2) A decree for the ejectment of a tenant holding under a special agreement or decree of Court may be made on such grounds as would justify ejectment under the agreement or decree.

Other Tenants.

Ejectment of other tenants.

53. A tenant not having a right of occupancy, and not holding under a special agreement or decree of Court, may be ejected by notice, application, or suit under the following sections of this chapter.

Ejectment by notice.

54. If a landlord desires to eject any such tenant on the expiration of his tenancy, he may cause a notice of ejectment to be served on the tenant under the next following section.

Contents, service, and cost of notice.

55. (1) The notice shall be written in Hindi and in Urdu; it shall be signed by the landlord or by an agent authorized by him in that behalf; it shall specify the land from which the tenant is to be ejected; it shall, if a court-fee is payable in respect thereof under this section, contain a certificate by the patwári as to the annual rent payable for the holding to which the notice relates; and it shall inform the tenant that he must either (*a*), if he means to dispute the ejectment, institute a suit for that purpose within thirty days from the date of the service of the notice, or (*b*) vacate the land on or before the fifteenth day of May next following.

(2) On the application of the landlord to the tahsíldár or other prescribed officer, the notice shall, if the proper court-fee (where a court-fee is payable under this section) has been paid in respect thereof, be served on the tenant by the officer on or before the fifteenth day of November at the expense of the landlord.

(3) If the tenant on whom the notice is to be served is a tenant to whom section 36 or section 37 applies, there shall, except as provided by this sub-section and sub-section (4) and by section 69, be payable in respect of the notice a court-fee equal in value to half the annual rent payable for the holding of the tenant, or in the case of a tenant paying rent in kind, a court-fee equal to half the value of the produce annually paid as rent on the average of the three years immediately preceding:

Provided that the court-fee shall not in any case exceed twenty-five rupees.

(4) A court-fee shall not be payable under sub-section (3) in respect of a notice on a person to whom section 48 applies.

(5) Stamps representing the court-fee shall be affixed on the notice before the notice and the application for the service thereof are presented to the tahsíldár or other prescribed officer.

(6) The court-fee paid by a landlord under this section shall not in any circumstances be adjudged to be payable as costs or otherwise by the tenant.

56. (1) A tenant on whom a notice has been served under the last foregoing section may institute a suit to contest his liability to be ejected from the land specified therein on any of the following grounds, namely:—

Grounds on which tenant may contest liability to ejectment.

(a) that he has a right of occupancy in the land;

(b) that he holds under a special agreement or decree of Court or unexpired lease under the terms of which he is not liable to be ejected from the land;

(c) if he is a tenant to whom section 55, sub-section (3), applies, that the notice was insufficiently stamped;

(d) if he is a tenant to whom section 36 or section 37 applies, that seven years will not have elapsed on the fifteenth day of May next following, since the date of any such change of rent or alteration of area as is under section 36 or section 37, as the case may be, equivalent to an admission to the occupation of a holding, or where no such change or alteration has taken place, since the date on which he was admitted to the occupation of the holding;

(e) if he is a tenant to whom section 53 applies, that notice of ejectment has not been served upon him in the manner required by this Act.

(2) A thíkadár shall not be entitled to contest a notice of ejectment on any ground other than that he holds a lease under the terms of which he is not liable to ejectment.

Compensation for improvements, if any, to be claimed in suit contesting liability to ejectment.

57. If the tenant has any claim for compensation for improvements on the holding, he shall file with his plaint a statement of the claim and of the grounds on which it is based.

58. If the Court dismisses the suit in whole or in part, it shall determine the amount of the compensation, if any, due for improvements, and shall declare ejectment from the whole or part of the land, as the case may, be, conditional on payment of that amount into Court.

Determination of the claim.

59. If the tenant on whom notice of ejectment has been served fails, within thirty days from the date of the service, to institute a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall cease on the fifteenth day of May next following, unless, after the service, the landlord has authorized him in writing to continue to occupy the land.

Tenancy to cease if notice is not contested.

60. (1) If the landlord requires assistance to eject a tenant on whom he alleges a notice to have been served under section 55, he may apply for that assistance to the Court which would have had jurisdiction with respect to a suit by the tenant to contest his liability to be ejected under the notice, and that Court shall order the ejectment of the tenant if it is satisfied—

When assistance to eject may be given by Court.

(a) that a notice of ejectment was duly served on the tenant;

(b) that the tenant has not brought a suit to contest the notice, or that, if suit for that purpose has been brought, it has been determined adversely to the tenant;

(c) that the tenant has not been authorized by the landlord in writing to continue to occupy the land.

(2) Nothing done by the Court under sub-section (1) shall affect the right of the tenant to institute a suit against his landlord on account of illegal ejectment and to recover compensation therefor.

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61. (1) If a landlord desires to eject a tenant to whom section 53 applies, and against whom a decree for an arrear of rent has been passed and remains unsatisfied, he may, after the first day of April of the year in which that arrear accrued, apply to the Deputy Commissioner to eject the tenant.

Ejectment by application.

(2) The Deputy Commissioner shall, on receiving the application, cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that, if he does not pay that amount into Court within fifteen days from receipt of the notice, he will be ejected from his holding.

(3) If the amount is not so paid, the Deputy Commissioner shall, unless good cause is shown to the contrary, eject the tenant.

62. (1) A tenant to whom section 53 applies shall be liable to ejectment by suit during the currency of his tenancy on any of the following grounds, namely :—

Ejectment by suit.

(*a*) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of his tenancy ;

(*b*) that at the time of the institution of the suit the entire holding has been sub-let ;

(*c*) where the rent is payable in kind, that his cultivation has diminished to a point which by the custom of the locality involves the forfeiture of the holding ;

(*d*) where the tenant holds, under an unexpired lease, land to which section 4, sub-sections (3) and (4), applies, then on any ground which would justify ejectment under the lease.

(2) The tenant shall continue liable for the rent of the land until the decree is executed.

General.

63. Except in pursuance of an order under section 21, sub-section (3), a tenant shall not in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupation, except between the first day of April and the thirtieth day of June in any year after the passing of this Act.

Time of ejectment of tenant.

64. A thíkadár liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy.

Time of ejectment of thíkadár.

65. In any suit for ejectment the defendant may file any claim for compensation for improvements which he may have against the plaintiff, and, if the Court finds the grounds on which the suit is brought to be valid, it shall determine the amount of compensation, if any, due from the plaintiff to the defendant, and shall pass a decree of ejectment conditional on the payment into Court of that amount.

Preferment by tenants of claims for compensation for improvements in suits for ejectment.

66. A tenant ejected in accordance with the provisions of this Act shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to the tenant and being on the land at the time of his ejectment :

Compensation to ejected tenant for growing crops.

Provided that, if the land has been sown or planted by the tenant after service on him of a notice under section 55, he shall not be so entitled, unless, after that service, the landlord has authorized him in writing to continue to occupy the land.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS RESPECTING TENANCIES.

Sír Lands.

Sír lands.

67. (1) The rights conferred upon tenants by sections 24, 36, 37, 38, 39, 45, 46, 47, and 48, shall not accrue to cultivators of any of the following lands, namely :—

(*a*) land which for the seven years immediately preceding the passing of this Act has been continuously dealt with as sír in the distribution of proprietary or under-proprietary profits and charges ;

(*b*) land which for the seven years immediately preceding the passing of this Act has been continuously cultivated by the proprietor or under-proprietor himself or by his servants or by hired labour.

(2) Land which was recorded as sir at settlement, and has been continuously so recorded since, shall, until the contrary is proved, be presumed to be land of the class mentioned in clause (*a*) of sub-section (1).

Thíkadárs, Mortgagees, and Sub-tenants.

Thíkadárs, mortgagees, and sub-tenants.

68. (1) A person holding land as a thíkadár, mortgagee, or sub-tenant, shall not, while so holding, acquire any of the rights enumerated in the last foregoing section in any of the land comprised in his thíka, mortgage, or sub-tenancy.

(2) A person having those rights in land does not lose them by subsequently taking a thíka or mortgage in which his holding is comprised.

Long Leases.

Incidents of leases for eight years or upwards.

69. (1) When a holding has been let by registered document for a term of eight years or upwards at a rent determined thereby for the whole of the term in accordance with the provisions of this Act to a tenant to whom section 36 or section 37 applies, the landlord shall, on the expiration of the term, be entitled to enhance the rent of the holding in accordance with the provisions of Chapter IV., Part B, and not otherwise, and shall also be entitled to eject the tenant by notice under section 55 without payment of a court-fee under that section :

Provided that any change in the rent or alteration in the area of the holding by the landlord during the term shall be a bar to enhancement and ejectment for seven years from the date of that change or alteration.

(2) In addition to the grounds mentioned in clauses (*a*), (*b*), and (*c*) of section 62, sub-section (1), a tenant to whom this section applies shall be liable to ejectment by suit during the currency of his tenancy on any ground which would justify ejectment under the registered document under which he holds.

Miscellaneous.

Evidence respecting change of rent or alteration of area of holding.

70. Where a tenant has received a patta, a statement that since the date of the patta his rent has been changed, or area of his holding altered, by the landlord, shall not be admissible in evidence unless the change or alteration is recorded in an entry on the patta signed by or on behalf of the landlord, and in an entry on the counterpart signed by or on behalf of the tenant, or in a new patta and counterpart.

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71. The expression "special agreement" or "decree of Court," where it is used in this Act to signify the tenure on which land is held by a tenant, is to be construed as referring to an agreement or decree made or passed before the passing of this Act.

Construction of certain expressions.

CHAPTER VII.

DISTRESS FOR ARREARS OF RENT.

72. When an arrear of rent is due from any tenant, the landlord may, subject to the provisions of this chapter, distrain the produce of the land in respect of which the arrear is due:

Recovery of arrears of rent by distress.

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which the rent is payable shall not be liable to distress so long as the security is in force.

Distress not permissible in certain cases.

73. Distress shall not be made for the recovery of—

(*a*) any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due, unless the tenant has agreed in writing to pay that excess, or unless he has been declared by decree to be liable therefor, or

(*b*) any arrear which has been due for a longer period than one year.

74. The power of distress vested by section 72 in landlords may be exercised by managers under the Court of Wards, managing agents and tahsildárs of estates held under direct management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorized by power-of-attorney to distrain:

Power of distress by whom exercisable.

Provided that, if any such agent, purporting to act in the exercise of that power, commits an act which, under the the provisions of this chapter, is illegal, the person employing him shall be liable, as well as the agent, to be sued for compensation for any injury caused by the act.

75. Any person empowered to distrain property under section 72 or section 74 may employ a servant or other person to make the distress, but in every such case he shall give to the servant or person a written authority in that behalf, and the distress shall be made in the name and on the responsibility of the person giving the authority.

Distress by servants.

76. (1) Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with powers of distress under this Act.

Crops liable to distress.

(2) But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement as the land in respect of which the arrear is due, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distress under this Act.

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Demand of arrear before or at time of distress.

77. (1) Before or at the time when any distress is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

(2) The demand and account shall, if practicable, be served personally on the defaulter, but, if he cannot be found, they shall be affixed at his usual place of residence, and shall thereupon be deemed to be duly served upon him.

Value of distress and service of list of distrained property on owner.

78. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress; and, when he has made the distress, he shall prepare a list or description of the property distrained, and deliver a copy thereof to the owner, or, if the owner is absent, affix it at his usual place of residence.

Reaping and storing standing crops distrained.

79. (1) Standing crops and other ungathered products of the earth may, notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose.

(2) If the tenant neglects to do so, the distrainer may cause the crops or products to be reaped or gathered, and in that case shall store them either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

(3) In either case the distrained property shall be placed in the charge of some proper person appointed by the distrainer for the purpose.

(4) If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would ordinarily be fit for cutting or gathering.

Application by distrainer in case of resistance.

80. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it thinks necessary, depute an officer to assist the distrainer in making the distress.

Withdrawal of distress on tender of arrear and costs.

81. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided, the owner tenders payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the payment, and give a receipt therefor, and forthwith withdraw the distress.

Application for sale.

82. Within five days from the time of storing any distrained crops or products, or, if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for the sale thereof to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

Form of application.

83. (1) The application shall be in writing; it shall contain a list or description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due, and the place in which the distrained property is deposited.

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(2) Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as provided in the next following section.

Procedure on receipt of application.

84. (1) Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in Schedule C to this Act, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

(2) The officer shall at the same time send to the Court, for the purpose of being put up at the court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation, and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

(3) The proclamation shall contain a description of the property, and shall specify the demand for which it is to be sold, and the place where the sale is to be held.

Suspension of sale on institution of suit.

85. (1) If a suit is instituted in pursuance of the notice mentioned in the last foregoing section, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall deliver to him, a certificate of the institution of the suit.

(2) On the certificate being received by, or presented to, the proper officer, he shall suspend proceedings in regard to the sale:

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

Suit to contest distrainer's demand.

86. (1) Any person whose property has been distrained as aforesaid may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in section 84, sub-section (1).

(2) When any such suit is instituted, the Court shall proceed in the manner directed in section 85.

(3) If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court, and suspend further proceedings pending the decision of the case.

Withdrawal of distress on execution of bond.

87. (1) The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more surety or sureties, for an amount not less than double the value of the property distrained, binding himself to pay whatever sum may be adjudged to be due from him, with costs of suit.

(2) When a bond has been executed under sub-section (1), the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the execution of the bond.

(3) Upon the certificate being presented to the distrainer by the owner of the property, or upon the notice being served on the distrainer by order of the Court, as the case may be, the property shall be released from distress.

Sale.

88. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided, he shall, unless that demand

with such costs of the distress as are allowed by him, is discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary.

Place and manner of sale.

89. (1) The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bázar, or other place of public resort, if the proper officer thinks that it is likely to sell there to better advantage.

(2) The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable, and if the demand, with the costs of distress and sale, is satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

90. If, on the property being put up for sale, a price which the officer holding the sale thinks fair is not offered, and if the owner of the property or his recognized agent applies to have the sale postponed until the next day, or (if a market is held at the place of sale) until the next market day, the sale shall be potsponed until that day, and shall be then completed at whatever price may be offered

Payment of purchase-money.

91. (1) The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit, and in default of payment the property shall be put up again and re sold.

(2) When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

Proceeds of sale.

92. (1) The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee on account of the expenses attending the sale

(2) He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 84 to such amount as, after examination of the statement of expenses furnished by the distrainer, the officer thinks proper to allow.

(3) The remainder shall be applied to the discharge of the arrear for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

Officers holding sales not to purchase.

93. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, those officers, are forbidden to purchase, either directly or indirectly, property sold by those officers.

Illegal acts of distrainer to be reported.

94. (1) The officer mentioned in section 82 shall bring to the notice of the Court any illegal act which may come to his knowledge as having been committed by any person in making a distress under this Act.

(2) If in any case, on proceeding to hold a sale under this Act, that officer finds that the owner has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 84, or make such other order as it thinks proper.

Recovery of expenses where sale does not take place.

95. (1) When that officer has gone to any place for the purpose of holding a sale, and a sale does not take place either for the reason stated in section 94 or because the distrainer's demand has been previously satisfied, a charge of one anna for every

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rupee of the value of the distrained property, as estimated by the officer, shall be leviable by him on account of the expenses of the intended sale, unless the distrainer's demand has been satisfied before the day fixed for the sale, and notice of its having been satisfied has been given by him to the officer.

(2) If the distrainer's demand is not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion of the property as may be necessary.

(3) In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property.

(4) The charge leviable under this section shall not exceed ten rupees in any case.

Second proclamation of sale when arrears are adjudged to be due.

96. (1) When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion thereof is adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

(2) On the application of the distrainer (which shall be made within five days from the receipt of order by the officer), the officer shall publish a second proclamation in the manner prescribed in section 84, fixing another day for the sale of the distrained property, not being less than five or more than ten days from the date of the proclamation, and, unless the amount adjudged to be due with costs of distress is paid before that day, shall proceed to sell the property in the manner hereinbefore provided.

Distrainer to prove the arrear in suit to contest his demand.

97. (1) In all suits instituted to contest a distrainer's demand, the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount of the arrear.

(2) If the demand or any part thereof is found to be due, the Court shall make in favour of the distrainer a decree for the amount so found.

(3) That amount may be recovered, if the distrained property has not been released on security, by sale of the distrained property as provided in section 96, and, if any balance remains due after the sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property has been released on security, by execution of the decree against the person and property of the defaulter, and if his surety has been made a party to the suit, against the person and property of the surety.

Compensation for vexatious distress.

98. If the distress is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

Suit by third party claiming property distrained.

99. If any person claims, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and that other person to try the right to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

Rules applicable to suit by third party.

100. (1) When any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court.

(2) If the claim is dismissed, the Court shall make an order in favour of the distrainer, for the sale of the property, or the recovery of its value, as the case may be.

(3) If the claim is upheld, the Court shall order the release of the distrained property, and may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

Landlord's prior claim to distrainable produce in possession of defaulting tenant.

101. No claim to any produce liable to distress under this Act and found at the time of the distress in the possession of a defaulting tenant, whether the claim be in respect of a previous sale, mortgage, or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against the prior claim of the landlord.

Stranger claiming to be landlord and to have right of distress to be made a party.

102. When property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, and the right to distrain for that arrear is claimed by or on behalf of any person other than the distrainer, on the ground of that other person being actually and in good faith in the receipt and enjoyment of the rent of the land, that other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commencement of the suit shall be inquired into, and the suit shall be decided according to the result of the inquiry:

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of land to establish that title in a Court of competent jurisdiction, by suit instituted within one year from the date of the decision.

Suit for illegal distress.

103. Any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be, within the period allowed by section 84 or section 99, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress and sale.

Suit for illegal act of distrainer.

104. In any of the following cases, namely:—

(*a*) if any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sells, otherwise than in accordance with the provisions of this Act, any property for the recovery of an arrear of rent alleged to be due, or

(*b*) if any distrained property is lost, damaged, or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or

(*c*) if the distress is not immediately withdrawn when any provision of this Act requires its withdrawal,

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

Suit for distress or sale falsely purporting to be under the Act.

105. (1) If any person not empowered by this Act to distrain or sell, or not duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of the property may institute a suit to recover compensation from the person so distraining or selling for any injury which the plaintiff has sustained from the distress or sale.

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(2) The institution of a suit under sub-section (1) shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

Procedure in case of resistance to distress.

106. (1) If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Court, upon complaint being made within ten days from the date of the resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

(2) If the case cannot be at once heard and determined, the Court may, if it thinks fit, require the person arrested to give security for his appearance whenever he may be required to appear, and, in default of the security being given, may commit him to the civil jail until the case is tried.

Punishment of offender.

107. If the resistance to the distress or the removal of the distrained property is proved, the Court may order the offender to pay a fine not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made:

Provided that the offender shall not be imprisoned under this section for a longer term than six months.

CHAPTER VIII.

JURISDICTION OF THE COURTS.

Suits cognizable.

Suits cognizable under the Act.

108. Courts other than Courts of Revenue shall not take cognizance of the following descriptions of suits, and those suits shall be heard and determined in Courts of Revenue in the manner provided in this Act, and not otherwise:—

A.—Suits by a Landlord—

(1) for the delivery by a tenant of the counterpart of a patta;

(2) for arrears of rent, or, where rent is payable in kind, for the money-equivalent of rent;

(3) for the enhancement of the rent of a tenant;

(4) for the ejectment of a tenant;

(5) against patwárís or agents employed by landlords in the management of land or the collection of revenue or rent, or against the sureties of those patwárís or agents for money received or accounts kept by the patwárís or agents in the course of their employment as aforesaid, or for papers in their possession, or for the rendering and settlement of accounts;

B.—Suits by an Under-proprietor or a Tenant—

(6) for establishing a right of occupancy;

(7) for the delivery by a landlord of a patta;

(8) for contesting a notice of enhancement or ejectment;

(9) for compensation—

(a) on account of illegal enforcement of payment of rent, or of any sum in excess of rent due, or

(b) on account of the withholding of a receipt for a payment of rent, or

(c) on account of illegal ejectment, or

(d) on account of loss caused by the making of an improvement under section 29, sub-section (3), or

(e) on account of the value of standing crops under section 66 ;

(10) for the recovery of the occupancy of any land which has been treated by a landlord as abandoned, or from which an under-proprietor or tenant has been illegally ejected by the landlord ;

(11) for contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of that power, or for compensation for illegal distraint ;

(12) for abatement of rent in accordance with the provisions of section 18 or section 29, sub-section (4) ;

(13) for the recovery of compensation for improvements in accordance with the provisions of section 22 ;

C.—Suits regarding the Division or Appraisement of Produce—

(14) to set aside an award in respect of a division, estimate, appraisement, or proceeding under section 32 ;

D.—Suits by and against Lambardárs, Co-sharers, and Muáfidárs—

(15) by a sharer against a lambardár or co-sharer for a share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of those profits ;

(16) by a lambardár, or by a pattidár who is entitled to collect the rents of the patti, for arrears of revenue or rent payable through him by the co-sharers whom he represents, or by a lambardár for village-expenses and other dues for which the co-sharers may be responsible to him or against a joint lambardár for compensation for revenue or rent paid by the lambardár on account of the joint lambardár ;

(17) by co-sharers against lambardárs, or by proprietors or lessees against muáfidárs or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the withholding of a receipt for a payment of revenue or rent ;

(18) by muáfidárs or assignees of revenue for arrears of revenue.

Grades of Courts.

Grades of Courts for the purposes of the Act.

109. For the purposes of this Act, there shall be five grades of Courts of Revenue, namely :—

(1) the Assistant Collector of the second class ;

(2) the Assistant Collector of the first class ;

(3) the Collector ;

(4) the Commissioner ;

(5) the Judicial Commisioner.

Power to invest officers with powers of Assistant Collector.

110. (1) The Chief Commissioner may, from time to time, confer upon any officer the powers of an Assistant Collector of the first or of the second class under this Act, and may at any time withdraw those powers.

(2) In conferring powers under this section the Chief Commissioner may empower persons specially by name or classes of officials generally by their official titles.

Deputy Commissioner to have Collector's powers.

111. The Deputy Commissioner shall exercise the powers of a Collector under this Act.

1886. Act 22.

Investment of Settlement-officers with powers of Collector or Assistant Collector.

112. The Chief Commissioner may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector or Assistant Collector under this Act.

Jurisdiction of Assistant Collector of the 2nd class.

113. An Assistant Collector of the second class may try and determine suits of the descriptions mentioned in clauses (1), (2), (7), (12), (15), (16), (17), and (18) of section 108, of which the value does not exceed one hundred rupees.

Jurisdiction of Assistant Collector of the 1st class.

114. An Assistant Collector of the first class may try and determine suits of every description of which the value does not exceed five thousand rupees.

Jurisdiction of Collector.

115. (1) The Collector may try and determine suits of every description without limit as regards the value, and hear appeals from decrees of Assistant Collectors of the second class, and, except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from orders of Assistant Collectors of the first and of the second class.

(2) Whenever the state of the public business so requires, the Chief Commissioner may invest any Assistant Collector of the first class with the powers of a Collector for the trial and determination of suits and appeals under this Act, other than appeals from decisions of that Assistant Collector, and with the powers of a Deputy Commissioner under sections 24, 25, and 61, and may invest any Collector with all or any of the powers of a Commissioner under this Act.

Jurisdiction of Commissioner.

116. The Commissioner may, subject to the provisions of section 119, hear and determine appeals from original decrees of Collectors and of Assistant Collectors of the first class, and, except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from original orders of Collectors.

Jurisdiction of Judicial Commissioner.

117. The Judicial Commissioner may, subject to the provisions of section 119, hear and determine appeals from original decrees of Commissioners, and, except where an appeal is prohibited by the Code of Civil Procedure as applied by this Act, from originial orders of Commissioners, and, subject also to the provisions of that Code as so applied, appeals from appellate decrees and orders of Collectors and of Commissioners.

Appeals.

Limitation for appeals.

118. (1) Save as provided by sub-section (2) of this section, an appeal shall not lie—

(*a*) to the Collector—after the expiration of thirty days from the date of the decree or order complained of;

(*b*) to the Commissioner—after the expiration of sixty days from that date; or

(*c*) to the Judicial Commissioner—after the expiration of ninety days from that date.

(2) In computing these periods of thirty, sixty, and ninety days, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

Restrictions on appeals.

119. The decree or order of a Commissioner or of a Collector in a suit of value not exceeding one hundred rupees and of a description mentioned in clause (2), (5), (9), (11),

(14), (15), (16), (17), or (18) of section 108, or in an appeal from a decree or order in any such suit, shall be final, unless a question of right to enhance or otherwise vary the rent of a tenant, or a question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the decree or order of the Commissioner or of the Collector, in which case the decree or order last-mentioned shall be open to appeal in the manner provided in this Act.

Appeal from orders of Deputy Commissioners acting as such.

120. An order of a Deputy Commissioner sanctioning a remission of rent, under section 19, or granting or refusing an application under section 24, or determining the amount of the outlay on an improvement under section 25, or directing or refusing to direct the ejectment of a tenant under section 61, shall be subject to appeal to the Commissioner, whose order on the appeal shall be final.

Distribution of Business.

Power of Deputy Commissioner to distribute business.

121. Notwithstanding anything in the Code of Civil Procedure, the Deputy Commissioner may, by order in writing, direct that any business cognizable by him and the Courts subordinate to him shall be distributed among those Courts in such manner as he thinks fit:

Provided that a direction given under this section shall not empower any Court to exercise any power or deal with any business beyond the limits of its proper jurisdiction.

Transfer of Suits and other Proceedings.

Transfer of suits and other proceedings by Commissioners and Deputy Commissioners.

122. The Commissioner or Deputy Commissioner may withdraw any suit or other proceeding instituted in any Court subordinate to him, and try it himself, or refer it for trial to any other such Court competent to try it.

Transfer of suits and other proceedings by Judicial Commissioner.

123. The Judicial Commissioner may order that any suit or other proceeding pending in any Court subordinate to him shall be transferred to any other such Court competent to dispose of it.

Miscellaneous.

General subordination of Courts.

124. *In the performance of their duties under this Act, Collectors shall* be subordinate to, and subject to the direction and control of, Commissioners and the Chief Commissioner, and Assistant Collectors shall be subordinate to, and subject to the direction and control of, the Deputy Commissioners to whose districts they are respectively appointed:

Provided that nothing in this section shall empower the Chief Commissioner or any Commissioner or Deputy Commissioner to interfere in any way not authorized by this Act with any decision or order in a suit.

Suits by or against managing agents or tahsíldárs of estates held under direct management.

125. Suits which, under the provisions of this Act, may be brought by or against landlords, may be brought by or against managing agents or tahsíldárs of estates held under direct management, whether those estates are the property of Government or not.

1886.
Act 22.

126. (1) A sharer in a joint estate or under-proprietary or other tenure, in which division of land has not been made among the sharers, shall not exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants, or distress otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

Sharer to exercise certain powers only through manager or lambardár.

(2) In pattidári estates or tenures those powers shall be exercised only through a lambardár, or through the pattídár who is entitled to collect the rents of the pattí.

(3) Nothing in this section shall be construed to affect any local custom or special contract.

127. Any person in possession of land occupied without consent of the landlord shall be liable for the rent of that land at the rate payable in the previous year, or, if rent was not payable in the previous year, at such rate as the Court may determine to be fair and equitable, and he shall not, in respect of that land, have any of the statutory privileges conferred by this Act.

Rent payable for land occupied without consent of landlord.

128. A Court may sit at any place within the local limits of its jurisdiction, or, in the case of an Assistant Collector at any place within the limits of the district to which he is appointed.

Place of sitting of Courts.

CHAPTER IX.

Limitation of Suits.

129. Subject to the provisions as to legal disability contained in any law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall, except as otherwise provided in this Act, be instituted within one year from the date of the accrual of the cause of action.

General limitation.

130. A suit for the delivery of a patta or the counterpart of a patta may be institued at any time during the tenancy.

Suits for delivery of pattas or counterparts.

131. A suit by a tenant for the recovery of a holding which has been treated by a landlord as abandoned under section 21 shall be instituted within three months from the date on which the landlord entered upon the holding.

Suits for recovery of holdings treated as abandoned.

132. A suit for the recovery of an arrear of revenue or rent, or, where rent is payable in kind, for the money-equivalent of rent, or of a share of profits, shall, except in the case mentioned in section 16, be instituted within three years from the last day of the month of Jeth of the Fasli year in which the arrear fell due.

Suits for arrears of revenue or rent of share of profits.

133. A suit for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be instituted at any time during the continuance of the agency or within one year after its determination.

Suits against agents for money, or delivery of accounts or papers.

134. A suit regarding distress under section 103, 104, or 105, or to set aside an award in respect of a division, estimate, appraisement, or proceeding under section 32, shall be instituted within three months from the date of the accrual of the cause of action.

Suits regarding distress and division or appraisement of produce.

CHAPTER X.

PROCEDURE.

135. The provisions of the Code of Civil Procedure as in force in Oudh shall, so far as they are not inconsistent with the provisions of this Act, apply to all suits and other proceedings under this Act.

Application of the Code of Civil Procedure to proceedings under this Act.

136. Every notice under this Act shall, if practicable, be served on the person to whom it is addressed, or on an agent authorized by him to accept service on his behalf; but if that person or an agent so authorized cannot be found, service may be made by posting the notice at the usual place of residence of the person to whom the notice is addressed, or, if that person does not reside in the district wherein the land is situate, at the village-chaupal or other conspicuous place in the village wherein the land is situate.

Mode of service of notices.

137. In addition to the particulars required by section 50 of the Code of Civil Procedure to be specified in the plaint, the plaint shall contain the following particulars, namely :—

Contents of plaints.

(*a*) the name of the village or estate, and of the pargana in which the land to which the suit relates is situate ;

(*b*) if the suit is for recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice of ejectment, or for the recovery of the occupancy or possession of any land, then the extent, situation, and designation of the land to which the suit relates, and, where fields have been numbered in a Government survey, the number (if it is possible to give it) of each field ;

(*c*) if the suit is for recovery of an arrear of rent or revenue, then the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due ;

(*d*) if the suit is for the delivery of a patta or the counterpart of a patta, then all the particulars mentioned in section 8.

138. When in any suit between a landlord and an under-proprietor or tenant the right to receive the rent of land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed the rent up to the time of the commencement of the suit, that third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be inquired into, and the suit shall be decided according to the result of the inquiry :

Third person claiming rent to be made a party.

Provided always that the decision of the Court shall not affect the right of any party having a legal right to the rent of the land to establish his title thereto in a Court of competent jurisdiction.

1886.
Act 22.

Summons to defendant to be for final disposal in certain suits.

139. In suits under clauses (1), (2), (7), (10), and (11) of section 108, the summons to the defendant shall be for the final disposal of the suit.

Set-off in suits for arrears of rent.

140. In a suit to recover an arrear of rent, no set-off shall be allowed against the claim except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

Interest on arrears of rent.

141. When an arrear of rent remains due from any tenant, he shall be liable to pay interest on the arrear at the rate of one per cent. per mensem.

Payment of money into Court by defendant.

142. (1) In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiff's claim, together with the costs incurred by the plaintiff up to the time of the making of the deposit.

(2) Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application.

(3) From the date of the making of a deposit under this section, interest shall not be allowed to the plaintiff on the sum deposited, whether that sum be in full of the plaintiff's claim or fall short thereof.

Proceeding for balance where defendant pays less than amount claimed.

143. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in the last foregoing section shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

Making of local investigations by Court.

144. (1) A Court may, if it thinks fit, itself make a local investigation instead of issuing a commission under section 392 of the Code of Civil Procedure.

(2) When the Court itself makes a local investigation, the provisions of section 393 of that Code with respect to the recording of evidence shall apply to the Court, and any observations which the Court sees fit to record on its proceedings shall be received as evidence in the suit.

Decrees.

Time for the making of applications for execution.

145. A process of execution shall not be issued on a decree under this Act when the application for the issue of the process is made after the lapse of three years from the date of the decree, unless the decree is for a sum exceeding five hundred rupees, in which case the period within which execution may be had shall be regulated by the law for the time being in force as to the period allowed for the execution of decrees of Civil Courts.

Immediate execution of decree.

146. When a decree for money is made in any suit under this Act, the Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in section 256 of the Code of Civil Procedure.

Decree for enhancement to state date of commencement of enhancement.

147. When a decree in favour of the plaintiff is made in a suit for an enhancement of rent, the Court shall declare the date from which the enhancement shall take effect.

148. (1) If the decree is for the delivery of papers or accounts, it may be enforced by the imprisonment in the civil jail of the party against whom it is made, or by the attachment of his property, or by both imprisonment and attachment.

Enforcement of decree for delivery of papers or accounts.

(2) The imprisoment and attachment may be continued until the party complies with the terms of the decree :

Provided that he shall not be imprisoned under this section for a longer period than six months.

149. A decree for the delivery of a patta or of the counterpart of a patta shall specify all the particulars mentioned in section 8, and such other paticulars in accordance with the provisions of this Act as the Court deems fit.

Decrees for patta or counterpart to specify certain particulars.

150. If the decree is for the delivery of a patta or the counterpart of a patta, and the party ordered to deliver the patta or counter partneglects or refuses to do so, the Court may grant a patta or counterpart in conformity with the terms of the decree, and that patta or counterpart shall have the same effect as if delivered by the party against whom the decree was passed.

Grant of patta or counterpart in case of defendant's refusal.

151. If the decree is for money, a process in execution shall not issue against the immoveable property of the judgment-debtor, other than for attachment of that property, unless satisfaction of the decree cannot be obtained against his moveable property.

Execution to be first made against moveable property.

152. If the decree is for an arrear of rent due in respect of an under-proprietary right, the interest of the judgment-debtor in that right may, subject to the provisions of this Act, be sold in execution of the decree.

Sale of under-proprietary right in execution of decree for arrears of rent.

153. A beneficial lease or other incumbrance created by an under-proprietor on his tenure after the twenty-second day of July, 1868, shall not be valid in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless the incumbrance has been registered under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of those rights and interests.

Registration of incumbrance created by under-proprietor.

154. (1) When an under-proprietor creates any such incumbrance, and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or the part of that rent, as the case may be, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section.

Proprietor's lien for rent payable by under-proprietor.

(2) Where after the passing of this Act an under-proprietor transfers his rights or any part thereof in land, and the transferee enters into possession, the transferee shall, subject to any agreement in writing with the proprietor to the contrary, be liable to pay to the proprietor any arrears of rent due in respect of the land at the date of the transfer.

155. (1) When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any co-sharer, other than the

Right of pre-emption at execution-sale.

1886.

Act 22.

judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down.

(2) A like claim may be made, if the land is a proprietary tenure, by an under-proprietor, and, if the land is an under-proprietary tenure, by a proprietor.

(3) Any claim made under this section shall be allowed :

Provided that, if a claim to the same land or lot is made by a proprietor or under-proprietor as well as by a co-sharer, the claim of the co-sharer shall prevail :

Provided also that a claim shall not be allowed unless the claimant fulfils all the conditions of the sale binding on a purchaser.

CHAPTER XI.

GENERAL.

Registration of statutory pattas unnecessary.

156. Notwithstanding anything in the Indian Registration Act, 1877, pattas granted for any term not exceeding seven years by landlords to tenants to whom section 36 or section 37 of this Act applies shall be deemed good and valid without their being registered.

Exclusion of specified areas from certain provisions of the Act.

157. The provisions of sections 4, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48, shall not extend to the areas specified in Schedule D to this Act, or to any other area which the Chief Commissioner may from time to time, by notification in the local official Gazette, add to that schedule, but the Chief Commissioner may from time to time, by like notification, extend those provisions, or any of them, to any of those areas.

Power to make rules.

158. (1) The Chief Commissioner may, from time to time, make rules consistent with this Act for the guidance of all persons in matters connected with the enforcement of this Act.

(2) The Chief Commissioner shall, before making rules under this section, publish a draft of the proposed rules in such manner as, in his opinion, is sufficient.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Chief Commissioner shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) Every rule made under this section shall be published in the local official Gazette in English and in such other language or languages as the Chief Commissioner directs, and that publication shall be conclusive proof that the rule has been made as required by this section.

SCHEDULE A.*

(*See section 15.*)

I, *A B*, of , &c., solemnly declare that I did personally [*or* by my agent *C D*], on the day of , tender payment to *E F* at (the place where the (revenue *or*) rent of the lands at , [held *or*] cultivated by me under [*or* from *or* jointly with] the said *E F* is usually payable) of the sum of rupees as and for the whole amount due from me in respect of the (revenue *or*) rent of the said lands from the month of to the month of , both inclusive. I further declare that the said *E F* refused to accept the said sum so tendered [*or* to give me a receipt in full forthwith for the sum so tendered]. And I declare that, to the best of my belief, the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe to the said *E F* on account of the (revenue *or*) rent of the said lands from the month of to the month of , both inclusive, and that I owe to the said *E F* no further sum on account of the (revenue *or*) rent of the said lands.

I, , the person named in the above declaration, do declare that what is stated therein is true to the best of my information and belief.

SCHEDULE B.†

(*See section 15.*)

Court of the of .
Dated the day of 18 .
To *E F* of , &c.

With reference to the within declaration, you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to your recognized agent on application And take notice that if you have any further claim or demand whatsoever to make against the said *A B* in respect of the (revenue *or*) rent of the said lands, you must institute a suit in Court for the establishment of that claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

SCHEDULE C.

(*See section 84.*)

Office of officer appointed to sell distrained property.

A B—Distrainer.

Whereas the said *A B* has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said *A B*, or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 188 .

SCHEDULE D.

(*See section 157.*)

(1) Parganas Kukra Mailani, Bhur, Srinagar, Nighasan, Palia, Khairigarh, Dhaurahra, and Firozabad in the district of Kheri;

(2) alluvial mahâls for the time being registered as such under the rules made under clause (*b*) of section 220 of the Oudh Land-revenue Act, 1876; and

(3) lands heretofore or hereafter granted under the waste-land rules for the time being in force in Oudh.

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* If this declaration is made by an agent it must be altered accordingly

† This is to be by endorsement on a copy of the declaration under Schedule A made by the person paying the money into Court.

1886.

Act 23.

ACT NO. XXIII. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND OCTOBER 1886.

An Act to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Acts, 1879 to 1882; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1886; and it and the Dekkhan Agriculturists' Relief Acts, 1879 to 1882, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

(2) This Act shall come into force on the first day of January, 1887.

Definition.

2. In this Act, unless there is something repugnant in the subject or context,—

"section" means a section, and "chapter" a chapter, of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881, and the Dekkhan Agriculturists' Relief Act, 1882.

Addition to section 1.

3. To section 1 the following shall be added after the word "Ahmadnagar," namely:—

"but may, from time to time, be extended wholly or in part by the Local Government, with the previous sanction of the Governor-General in Council, to any other district or districts in the Presidency of Bombay."

Addition to section 2.

4. To section 2 the following shall be added, namely:—

"5th.—'Lease' shall be deemed to include a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease.

"6th.—'Standing crops' shall be deemed to include garden-produce attached to trees or to the soil."

Amendment of section 3.

5. In section 3, clause (*y*), the word "and" shall be substituted for the word "or" where the latter word occurs between the word "foreclosure" and the word "sale."

Amendment of section 12.

6. In section 12, for the words "the Court shall, if the amount of the creditor's claim is disputed, enquire," the following shall be substituted, namely:—

"the Court, if the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses, unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall enquire."

Amendment of section 22.

7. In section 22, for the words "No agriculturist's immoveable property shall be attached or sold," the following shall be substituted, namely:—

"Immoveable property belonging to an agriculturist, other than his standing crops, shall not be attached or sold."

Addition to section 40.

8. To section 40 the following shall be added, namely:—

"A Conciliator empowered by the Local Government in this behalf may, instead of inviting, direct the person against whom the application is made to attend at the time and place either first or subsequently fixed.

"If an applicant, or a person against whom an application is made, fails to be present or attend at the time and place specified in a direction proceed-

ing from a Conciliator under this section, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code."

Addition to proviso to section 56.

9. To the proviso to section 56 the following shall be added, namely :—

"or to any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act."

Amendment of, and addition to, section 58.

10. (1) The last twenty-two words of the second paragraph of section 58, from "and a certified copy" to "more than one," are repealed.

(2) In the third paragraph of the same section, the words "and each such copy" are repealed.

(3) After the same section the following shall be added, namely :—

"A certified copy of any entry in the register shall be granted by the Village-Registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument."

New chapter and section to follow Chapter VIII. and section 63.

11. After Chapter VIII. and section 63 the following shall be inserted, namely :—

"CHAPTER VIIIA.

"REGISTRATION OF INSTRUMENTS REFERRED TO IN SECTION 17 OF THE INDIAN REGISTRATION ACT, 1877.

Mode of execution by agriculturists of instruments required to be registered under Act III. of 1877.

"63A. (1) When an agriculturist intends to execute any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act, he shall appear before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-Registrar shall write the instrument, or cause it to be written, and require it to be executed, and attest it, and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act in accordance with the procedure prescribed for a Village-Registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the Indian Registration Act, 1877.

"(2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last-mentioned unless it has been written, executed, and attested in the manner provided in that sub-section."

Amendment of section 72.

12. (1) In section 72, for the words "under this Act," where they first occur, the words "of the description mentioned in section 3, clause (*w*), shall be substituted.

(2) In the same section, the words "not being merely a surety for the principal debtor" are repealed.

(3) For the proviso to the same section the following shall be substituted, namely :—

"Provided that nothing in this section shall—

"(*i*) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not, at the time when the cause of action arose, an agriculturist, or

"(*ii*) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force."

Limitation of certain suits.

13. Notwithstanding anything in the last foregoing section of this Act, the period of limitation for any suit which may be instituted within two years from the coming into force of this Act, and to which, if this Act had not been passed, section 72 of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881, would have applied, shall be the period prescribed by that section.

ACT NO. XXIV. OF 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND OCTOBER 1886.

An Act to extend the Glanders and Farcy Act, 1879, to the Bombay Presidency.

WHEREAS it is expedient that the Glanders and Farcy Act, 1879, should extend to the territories administered by the Governor of Bombay in Council; It is hereby enacted as follows:—

1. The words "the Governor of Bombay in Council" in section 1 of the Glanders and Farcy Act, 1879, are hereby repealed.

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